FINAL REPORT

ONTARIO LAW REFORM COMMISSION

1996

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The Ontario Law Reform Commission was established by the Ontario Government in 1964 as an independent legal research institute. It was the first Law Reform Commission to be created in the Commonwealth. It recommends reform in statute law, common law, jurisprudence, judicial and quasi-judicial procedures, and in issues dealing with the administration of justice in Ontario.

Commissioners

John D. McCamus, MA, LLB, LLM, *Chair*
Richard E.B. Simeon, PhD, *Vice Chair**
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The Commission's offices at 720 Bay Street, Toronto, Ontario, Canada, M5G 2K, were closed on December 31, 1996. Enquiries may be directed to the Ministry of the Attorney General, at the same address.

* These Commissioners served during the period covered by this report. Their appointments expired, however, prior to its publication.

Ontario
Law Reform
Commission

To The Honourable Charles Harnick
Attorney General for Ontario

Dear Attorney:

I have the honour to present the *Final Report* of the Ontario Law Reform Commission, for the period ending December 31, 1996, in accordance with section 2(3) of the *Ontario Law Reform Commission Act*, R.S.O. 1990.

John D. McCamus
Chair

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INTRODUCTION

This *Final Report* of the Commission provides an account of the Commission's activities for the period from April 1, 1994 to December 31, 1996. It is the Commission's final published report. The Government of Ontario decided in May 1996 that the Commission's mandate should be terminated at the end of the calendar year. The Cabinet made this decision on the advice of a committee of government backbenchers who had been appointed by Cabinet to study various agencies, boards and commissions of the government with a view to effecting cost savings by closing those no longer considered by the committee necessary or desirable. The Ontario Law Reform Commission was one of twenty-two agencies abolished by Cabinet on the basis of the advice offered in the committee's first report dealing with advisory bodies. The Commission was not invited to make submissions to the committee during the deliberations leading up to its report.

This final report has been prepared by the Commission in order to discharge its responsibilities under section 2(3) of the *Ontario Law Reform Commission Act*, R.S.O. 1990. We have included in this report, in addition to the usual accounts of Commission activities during the reporting period, a brief history of the Commission's work. In so doing, we wish to create a permanent record of the Commission's achievements which will provide a factual basis for their measurement by others. As well, we wish to honour and express appreciation for the contributions of the many commissioners, staff members and consultants who have contributed much to the work of the Commission over the years and, by this means, to the administration of justice both within the province and beyond its borders.

At the time of its closure, the Commission was in the midst of its thirty-third year of service to the objective set out in its statutory mandate of recommending appropriate reforms of the laws of the province and of the administration of justice. From modest beginnings in 1964, in terms of financial support and staffing, the Commission gained in strength over the years and by the early 1990's the Commission employed a staff including as many as six full-time research lawyers, and had an annual budget of 1.6 million. This trend was reversed in fiscal 1993-94, however, as the first of a series of budget cuts reduced the Commissioner's allotment by thirty-seven percent. The Commission's annual budget at the time of its closure, at the end of 1996, was approximately $560,000.00 per annum.

At one level, then, the recent history of the Commission has been one of adjusting to reduced resources, dismissing valued personnel and attempting to meet the challenge of "doing more with less". At another and more positive level, however, it has been a period of commitment and achievement by our dedicated staff and consultants. Notwithstanding the difficulties flowing from fiscal restraint and the uncertainties concerning their professional situation, our staff continued to serve the Commission well by producing law reform work of high quality, often in collaboration with academic consultants of the highest rank and reputation. Indeed, during the reporting period, the Commission released six Commission reports and eight

volumes of study papers. All of these documents are more fully described in a subsequent chapter of this report.

Prior to the Cabinet decision to terminate the Commission, three major reports had been released, entitled *Report on Pensions as Family Property: Valuation and Division, Report on Avoiding Delay and Multiple Proceedings in the Adjudication of Workplace Disputes* and *Report on the Law of Coroners.* The Commission had also completed a study paper, entitled *Study Paper on the Prospects for Civil Justice.*

In the *Report on Pensions as Family Property: Valuation and Division,* the Commission makes recommendations for reform of the law relating to the division of pensions on marriage breakdown. In formulating its proposals for reform of this highly complex area, the Commission attempted to devise a scheme that appropriately balances the needs of the parties, the philosophy of the *Family Law Act* with respect to the equal sharing of assets on marriage breakdown, and the concerns of plan administrators who bear responsibility for pension division at source.

Implementation of the Commission's recommendations would virtually eliminate the need for the high volume of time-consuming and expensive litigation on pension matters endured by many couples who seek to equalize pension assets under the current law of Ontario. This report is the last in a trilogy of reports undertaken by the Commission in 1993 dealing with the *Family Law Act.* The other two reports—*Report on Family Property Law* and *Report on the Rights and Responsibilities of Cohabitants Under the Family Law Act*—were issued in 1993.

The *Report on Avoiding Delay and Multiple Proceedings in the Adjudication of Workplace Disputes* examines a number of tribunals and adjudicators involved in the resolution of disputes that arise in the workplace, focusing particularly on the time that it takes to resolve such disputes, and on the duplication of proceedings, that is, the ability to bring successive complaints before different tribunals arising out of a single dispute. The Commission focused its attention on two options for reform that will resolve the concerns identified by the Commission without adverse financial implications. The first option involves the nature of the procedures that are followed by the tribunals in resolving disputes. The second involves the structure and organization of the various tribunals that have been given the responsibility of adjudicating disputes arising in the workplace. The recommendations made by the Commission propose a scheme that would reduce delay, and reduce or eliminate the duplication of proceedings that can occur under the present law of Ontario.

The *Report on the Law of Coroners* reexamines the law and the operation of the coroner system in Ontario in the light of recent developments in the legal system that have had or may in the future have an impact on the coroner system. Developments in the law of standing, in the application of the duty of "fairness" by the courts to statutory decision-makers like coroners and the entrenchment of the *Canadian Charter of Rights and Freedoms* have dramatically changed the legal environment in which coroners conduct inquests and in which the province can design investigative powers and procedures for hearings.

The report sets forth a series of recommendations which would refashion the coroner system in order to meet the requirements, either explicit or implicit, in these changes to the legal environment. Further, the Commission makes a series of recommendations designed to enhance the capacity of the system to cope with the increasing complexity of the legal environment within which inquests are conducted, as well as a series of measures designed to facilitate certain efficiencies in the operation of the coroner system.

The *Study Paper on the Prospects for Civil Justice* was published by the Commission in collaboration with the Ontario Civil Justice Review. It includes a paper prepared by Professor Roderick A. Macdonald, of the Faculty of Law, McGill University, and commentaries prepared by a distinguished panel of Canadian, American, and English experts. Professor Macdonald's paper addresses the critical policy issues involved in a fundamental reconsideration of civil disputing in the province.

When the Cabinet decision to close the Commission was announced in May, 1996, the Commission had on its agenda ten projects in various stages of completion. The Cabinet decision provided for a period of seven months prior to closure in order to facilitate an orderly winding up of the affairs of the Commission. Accordingly, the Commission and its staff resolved to complete as much of this work in progress as possible in an attempt to avoid losing the intellectual capital already invested in this work. In the end, the Commission was able to complete four more reports entitled:

- *Report on the Use of Jury Trials in Civil Cases*
- *Report on Genetic Testing*
- *Report on the Law of Charities*
- *Report on Basic Principles of Land Law*

In addition, the Commission completed and published four sets of study papers entitled:

- *Rethinking Civil Justice: Research Studies for the Civil Justice Review*
- *Study Paper on Assisted Suicide, Euthanasia and Foregoing Treatment*
- *Study Paper on Psychological Testing and Human Rights in Education and Employment*
- *Study Paper on Legal Aspects of Long Term Disability Insurance*

These reports and study papers are briefly described below and are discussed at greater length in the body of this report.

The *Report on the Use of Jury Trials in Civil Cases* arose from a request of the Deputy Minister that the Commission consider the role of jury trials in civil cases and, more particularly, consider whether the costs imposed on the administration of justice by jury trials outweighed their benefit.

The Commission engaged in extensive consultations and studies of the use of juries in civil cases. The Commission concluded that civil jury trials do not cost taxpayers a significant amount, and do not result in increased use of courtroom facilities. Moreover, consultations with judges, lawyers, and jurors indicated that the individuals actually involved in such trials are in favour of their continued existence by a substantial majority. In the view of some at least, trial by jury in a civil case may be essential to a fair process in some circumstances.

The report then turns to consider a number of specific issues. The Commission recommends against user fees imposed on a party to an action who requires that the action be tried with a jury. Further, the Commission concluded that the legislation prohibiting a jury in actions against government should be repealed. Finally, in an effort to preserve the presumption in favour of the availability of the jury, the report concludes that certain amendments should be made regarding the right to dispense with the jury, either before or at trial.

The *Report on Genetic Testing* is the third in a series of four projects initiated by the Commission with respect to the use of modern testing technologies. The series considers when and how to give recognition to the individual's right to privacy.

The *Report on Genetic Testing* considers the development of genetic testing and how the information derived therefrom raises serious concerns about privacy and confidentiality. These concerns are exacerbated by the ability of genetics to predict health risks not only for the individual tested, but for blood relatives and potential offspring. While genetic information is unique from all other information, it can be subsumed within the context of medical information generally. The number of possible abuses of genetic information - denial of insurance, discrimination in employment, or an increase in litigation, to name but three—are reviewed by the report.

The report sets out a comprehensive set of recommendations designed to balance the legitimate needs for the use of genetic testing in various areas of activity under provincial jurisdiction against the legitimate need to protect the privacy interests of the subjects of genetic testing.

The *Report on the Law of Charities* responds to a reference on this topic to the Commission by the Attorney General. The terms of reference invited the Commission to examine and make recommendations concerning a number of questions which can be grouped under the following four topics; (1) the legal rules which determine the status of charities; (2) the legal forms of charities (trusts, corporations, and unincorporated associations) their varying powers, and the different liabilities and powers of trustees and directors of corporations; (3) the different sources of revenue for different kinds of charities and the manner in which the law restricts, to some extent, sources of revenue open to charities; and (4) the various organizations and groups who participate in the supervision of charities and the problems that result from the complex structure of its regulation.

The report recommends a comprehensive rethinking, redrafting, and re-organizing of the laws governing nonprofit organizations in Ontario on each of the four topics identified in the

reference. In the Commission's view, much of the current legal framework is anachronistic, confused and contradictory and as a consequence, the government of Ontario is not, in the Commission's view, able to adequately fulfill its traditional facilitative and protective mandate in the sector. The report sets out a comprehensive plan for modernization of the law applicable to charities and the governmental supervisory regimes to which they are subject.

In the *Report on Basic Principles of Land Law*, the three topics of land law examined are successive interests, co-ownership, and easements. The basic principles of Ontario land law are derived from English common law, supplemented by old English statutes which were either made part of Ontario law by reception in 1792 or were the models from which Ontario statutes were copied. Considerable reform of basic principles of land law has been enacted in other Commonwealth countries, including England, and the United States of America. In Canada, including Ontario, there has been little significant reform of basic principles, although there has been reform in particular areas such as residential tenancies and condominiums.

Four themes are apparent in our treatment of these subjects. First, we have been concerned with bringing up to date the areas of law afflicted with archaic principles and rules. A second theme is clarification. This is closely related to the modernization of archaic doctrine since archaic doctrines tend to be obscure, mainly because their rationales are unrelated to modern conditions. More generally, we have attempted to identify and reform areas of law that require clarification. A third theme is the re-evaluation of conceptual explanations for existing doctrines. The fourth theme is simplification of the law by the assimilation of doctrines. The report develops detailed proposals for the reform of land law doctrine in the light of these guiding themes or principles.

Rethinking Civil Justice: Research Studies for the Civil Justice Review is comprised of two volumes of research papers examining various aspects of the administration of civil justice and its reform, which earlier were submitted to the Ontario Civil Justice Review. The Ontario Civil Justice Review was a joint initiative of the Government of Ontario and the Ontario Court of Justice (General Division). In its terms of reference, the review was mandated to develop an overall strategy to provide a structure for the civil justice system that is speedier, more streamlined and more efficient, and that will maximize the utilization of the public resources allocated to civil justice.

Although the Civil Justice Review was not a project of the Ontario Law Reform Commission, it was nonetheless anticipated that the Commission would contribute in some fashion to the work of the Review by undertaking special projects from time to time. In this respect, the Ontario Law Reform Commission collaborated with the Review in preparing a number of research studies, which addressed the following issues: (1) public perceptions of the civil justice system; (2) empirical studies of administrative agencies and court files; (3) the choice of governing instruments—defining an appropriate domain for civil claims; (4) the allocation of civil disputing forum; (5) enhancing the performance of the court system; (6) enhancing the performance of the administrative justice system; and (7) barriers to access to civil justice for disadvantaged groups. The resulting papers are published in these volumes.

The *Study Paper on Assisted Suicide, Euthanasia and Foregoing Treatment* was prepared by Professor J.M. Gilmour of Osgoode Hall Law School of York University with additional chapters by Karen Capen of the Ontario Bar, and Professors B. Sneiderman of the Faculty of Law, University of Manitoba and M. Verhoef of the Department of Clinical Epidemiology, University of Calgary. The paper examines the existing legislative framework governing decision-making about this area of health care, as well as the state of the law in other jurisdictions.

The analysis of the legal issues involved in assisted suicide and euthanasia is complicated by the fact that the issues fall under the jurisdiction of the federal government, the provincial government, or both. The question of decriminalizing assisted suicide and euthanasia is a matter that must be determined by the federal government. However, health care is primarily regulated by the provinces. There are, then, aspects of the law affecting assisted suicide and euthanasia that fall within provincial jurisdiction but there is also a need to consider federal law as it affects and overlaps with those aspects. Criminal law, for instance, sets limits on professional standards and practices of health care providers. The regulation of the health profession is a matter clearly within provincial jurisdiction. The provinces also have jurisdiction over the administration of the criminal justice system and therefore decisions about enforcement such as investigations, charges laid, and prosecutions are regulated by the provinces. The study paper makes recommendations with respect to reform of the legal environment in which decision-making on these issues occurs with euthanasia continuing to be a criminal offence.

The *Study Paper on Psychological Testing* was prepared by Professor A. Wayne MacKay of the Faculty of Law, Dalhousie University, and Pam Rubin of the Nova Scotia bar. The paper assesses standardized psychological testing and the legal redress open to those experiencing discrimination due to testing. The paper considers the following three aspects of psychological testing: (1) the history of testing and the attitudes surrounding its advent; (2) the impact of testing on employment; and (3) the use of testing in allocating educational opportunities and resources and the long term equality consequences of these decisions. Throughout the paper, the impact of psychological testing on privacy and the legal protections against privacy compromises are evaluated.

The paper explores the adverse impact testing has on various groups, and the basic equality guarantees under the Charter and the Ontario Human Rights Code. The paper examines the basic legal methods available in Ontario for challenging discrimination caused by testing. The Human Rights Commission process is particularly scrutinized in terms of the obstacles complainants' experience when bringing forward testing claims based on adverse impact or systemic discrimination and the difficulty the Commission has in sorting out expert technical testimony. The paper identifies problematic aspects of the use of psychological testing in the employment and education contexts and proposes solutions for them. Publication of this paper completes the Commission's series of projects on issues relating to modern testing technologies.

The *Study Paper on Legal Aspects of Long Term Disability Insurance* was prepared by Professor Marvin G. Baer, of the Faculty of Law, Queen's University. It examines a number of substantive and procedural issues relating to the existing schemes of long term disability

insurance. The substantive issues discussed relate to the application for coverage, the coverage provided by the policy, and the making of claims. The procedural issues addressed include the dispute resolution mechanism and the availability of information about coverage.

After reviewing several options, the paper recommends the reform of several basic insurance law doctrines, the adoption of the general provincial rules governing deceptive acts or practices, and the clarification and more active use, by the Insurance Commissioner, of the authority to control unfair or unreasonable contract terms and claims procedures.

Unlike the Commission reports described above, these various study papers do not, of course, represent the views of the Commission. The study papers on assisted suicide, euthanasia and foregoing treatment, psychological testing and long term disability insurance were initially intended as first steps in processes that would lead ultimately to the publication of Commission reports on these subjects. We are confident, however, that the views of the distinguished authors of these study papers will be of interest and assistance to various ministries of the Government of Ontario and to policy-makers in other jurisdictions.

BRIEF HISTORY OF THE ONTARIO LAW REFORM COMMISSION

INTRODUCTION

The period covered by this *Final Report* began with a celebration of the thirtieth anniversary of the enactment of the Commission's enabling legislation, *The Ontario Law Reform Commission Act, 1964*,[1] which came into force, upon receiving royal assent, on May 8, 1964.[2] As noted in the introductory chapter of this report, the period ended on December 31, 1996 with the closure of the Commission on the basis of a Cabinet decision taken in May, 1996. The publication of this *Final Report* provides the Commission with an opportunity to reflect upon its history, its work, and its role in the administration of justice within the province.

CREATION OF THE COMMISSION

Although the Attorney General had earlier established a number of law reform committees,[3] the Ontario Law Reform Commission was the first independent legal research institute of its kind to be established in the Commonwealth.[4] The genesis of the Commission has been credited to the following remarks, made in 1963, by Chief Justice McRuer:[5]

> [The Attorney General's Committee[6]] has been a good committee and it has done good work but it is not a committee that is intended to do research work nor is it equipped to do such work. It is properly composed of busy lawyers and Judges. Legal research to be effective must be organized,

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1 S.O. 1964, c. 78. See, now, *Ontario Law Reform Commission Act,* R.S.O. 1990, c. O.24.

2 The anniversary was celebrated at a reception on December 13, 1994, at the Barristers' Lounge, Osgoode Hall, Toronto. This reception also marked the publication by The Osgoode Society of a biography of the Commission's founding Chair, the Honourable James C. McRuer, by Patrick Boyer. See Boyer, *A Passion for Justice*[:] *The Legacy of James Chalmers McRuer* (1994).

3 For example, the Attorney General's Committee on the Administration of Justice was established in 1956, and was composed of members of the bench, the bar, and court officials. It considered not only issues involving the administration of justice, but also matters of substantive law. The Committee was discontinued some time after the establishment of the Ontario Law Reform Commission. See Hurlburt, *Law Reform Commissions in the United Kingdom, Australia and Canada* (1986), at 176.

4 Since 1964, numerous jurisdictions have created similar commissions. For a review of the commissions established in the United Kingdom, Australia and Canada, see Hurlburt, *ibid.*

5 *Address to the Grand Jury of the High Court for Ontario at the opening of the High Court of Justice for Ontario,* January 7, 1963, quoted in Hurlburt, *supra,* note 3, at 204. See, also, Boyer, *supra,* note 2, at 336-37.

6 Discussed *supra,* note 3.

> independent and financed as all other research. It should be so organized as to harness not only the experience and wisdom of Judges and practicing lawyers but the vast resources of academic scholarship that we have in Canada today.

Approximately one year later, upon being shown a draft of a proposal for the establishment of a law reform commission by the Deputy Attorney General, Chief Justice McRuer again stressed that it must be "an independent body away from the Attorney General's Department, report to him, true, but set up so that it will operate independently as an independent commission".[7]

Legislation to establish the Ontario Law Reform Commission was introduced in the Legislature on March 5, 1964. In response to a question on second reading whether the Commission's reports would be made public, the Attorney General made it clear that the Commission itself would have the authority to determine such issues. He stated:[8]

> The reports of the Commission, as outlined in the legislation proposed, would, I myself believe, be public reports and might well be tabled in the Legislature, but this is purposely not included in this bill at this time.... It could well be that those people we might have in mind to approach to be members of this commission might well feel that their recommendations and reports to the Attorney General should be confidential reports until their recommendations had been considered by the government.
>
> It might well be that the commission would consider that their reports might be public reports. So far as I am concerned, I see no reason why they should not be public reports and either tabled in the Legislature or released for the information of the hon. members and the general public. I think that is a matter, Mr. Speaker, which must be left until the personnel of the commission are appointed.

The independence of the Commission was underscored once again by the Attorney General, during the debate on second reading, when he stated that the proposed legislation contained "no restrictions on what the commission may take as their area of inquiry or how they may proceed".[9] *The Ontario Law Reform Commission Act, 1964* received third reading on May 7, 1964, and, as noted above, received royal assent the following day.

THE COMMISSION'S MANDATE

Section 2(1) of the *Ontario Law Reform Commission Act*[10] sets out the functions of the Commission, in the following terms:

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7 Quoted in Boyer, *supra,* note 2, at 342.

8 Ont., Legislative Assembly, *Official Report of Debates (Hansard)* (March 11, 1964), at 1492.

9 *Ibid.,* at 1493.

10 *Supra,* note 1.

2.—(1) It is the function of the Commission to inquire into and consider any matter relating to,

(a) reform of the law having regard to the statute law, the common law and judicial decisions;

(b) the administration of justice;

(c) judicial and quasi-judicial procedures under any Act; or

(d) any subject referred to it by the Attorney General.

In addition, section 2(2) of the Act provides that "[t]he Commission may institute and direct legal research for the purpose of carrying out its functions". Accordingly, the Commission may initiate an inquiry into any of the matters set out in section 2(1) without seeking prior government approval. One commentator has observed that the statute provides "a remarkable degree of freedom and independence which was directly owing to McRuer's arguments".[11] The broad legislative mandate leaves considerable scope for the Commission to determine its own priorities. Subject only to the Attorney General's reference power, the Commission defines its own agenda. In establishing its program, the Commission has been mindful, from the outset, that as a public agency "its relations with the administration and legislature should be such as to ensure a serious concern for its work and a reasonable expectation of the acceptance of the product of its work".[12] Thus, the Commission has the autonomy to set its own priorities, and ensures that its work is attuned to the current public agenda.

THE COMMISSIONERS

Section 1(2) of the *Ontario Law Reform Commission Act* provides that "[t]he Commission shall be composed of three or more members appointed by the Lieutenant Governor in Council". One of the members may be designated by the Lieutenant Governor in Council as Chair.[13] Historically, the Commission has been composed of five members, including a Chair and a Vice Chair.[14] Until relatively recently, the Chair served on a full-time basis, while the Vice Chair and the other Commissioners served part-time. However, as a result of a reorganization of the Commission in 1992, the Chair has since been appointed on a part-time basis. Moreover, while the Commissioners were appointed originally to serve for an indefinite term, in recent years appointments have been made for a fixed term of three years, and typically have been subject to a single renewal.

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11 Boyer, *supra,* note 2, at 343.

12 Ontario Law Reform Commission, *Annual Report 1967* (1968), para. 14, at 8.

13 *Ontario Law Reform Commission Act, supra,* note 1, s. 1(3).

14 While s. 1(3) of the *Ontario Law Reform Commission Act, ibid.,* provides for the designation of a chair, no specific statutory authority is provided for the appointment of a vice chair.

In the past thirty-two years, there have been eighteen members of the Commission,[15] representing a considerable breadth of experience. There have been a former Chief Justice of the High Court of Justice (the Honourable James C. McRuer), a former Chief Justice of Ontario (the Honourable George A. Gale), one provincial court judge (the Honourable Judge Vibert Lampkin), one former federal cabinet minister (the Honourable Richard A. Bell), one former Member of Provincial Parliament (James R. Breithaupt), four current or former law deans (H. Allan Leal, J. Robert S. Prichard, John D. McCamus, and Sanda Rodgers), two law professors (Derek Mendes da Costa, and Nathalie Des Rosiers), one political science professor (Richard E.B. Simeon), one former chair of an administrative agency (Rosalie S. Abella), and five private practitioners (W. Gibson Gray, William R. Poole, Barry A. Percival, Earl A. Cherniak, and Margaret A. Ross).

THE COMMISSION'S PROGRAM

Section 2(1)(d) of the Act gives the Attorney General the power to refer any matter to the Commission. This power has been used regularly, although sparingly, by the government. More frequently, in recent years, the Commission has undertaken projects at the request of, and in consultation with, the government, without the requisite of a formal reference. However, in general, most of the Commission's program has been determined internally.

From the beginning, the Commission's agenda has had a dual focus. The Commission acknowledged early on that, for a variety of reasons, neither the government nor the legal profession was particularly interested in initiating or promoting reform of technical, "black-letter" law. It recognized, however, that, without such reform, the administration of justice would continue to be hampered by the arcane complexity of such law, and by its failure to adjust to contemporary social, economic, and political conditions. It was viewed as "essential", therefore, "that an independent law reform agency should adopt [such reform] as a matter of its legitimate and continuing concern".[16] However, the Commission has not occupied itself exclusively with so-called "lawyers' law". It has often taken the opportunity to inquire into areas involving broader social policy.[17]

The Commission welcomed project suggestions from practicing lawyers, members of the judiciary, public officials, law teachers, and members of the public generally. In recent years,

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15 The officers of the Ontario Law Reform Commission from 1964-1995, and the dates of their tenure, are set out in Appendix F. The permanent staff of the Commission from 1964-1995, and the years of their service, are set out in Appendix G.

16 *Annual Report 1967, supra,* note 12, para. 30, at 11.

17 Examples of the Commission's dual focus are provided below. A complete list of the Commission's publications appears in Appendix A.

new projects were added to the Commission's program in accordance with the Commission's project selection criteria, adopted in June 1993.[18]

METHODOLOGY

The Commission has followed essentially two organizational models in the conduct of its research. In the first model, a legal academic or other external expert is engaged to conduct the necessary research, and prepare a draft report for consideration by the Commission.[19] In the second model, Commission counsel assumde primary responsibility for conducting the necessary research, and writing the draft report. If necessary, outside experts, in this model, were engaged to conduct research with respect to specific, clearly defined issues.

Project proposals were considered by the Commission and, if accepted, were assigned either to one of the Commission counsel, or to an outside academic. In the case of large projects, the practice has been to appoint a project director who, in turn, engaged the necessary research team, subject of course to the Commission's approval.

The Commission has long acknowledged that "[t]he participation of the legal practitioner at all levels in a consultative and advisory capacity...is vital to the work of the Commission".[20] Today, consultation is fundamental to all policy development, and it became an increasingly important part of Commission practice. An advisory board was ordinarily constituted in connection with each Commission project, often comprising not only practitioners and other legal experts, but also experts in other relevant subject areas, as well as representatives of appropriate interest groups and other interested parties. In addition, broader consultations were often undertaken, for example, through the publication of a general request for submissions, or through the circulation of a consultation paper.

Once a draft report had been completed, it was placed on the agenda for consideration by the Commission. The author of the report and any necessary consultants would be present to assist the Commission in its deliberations. Whichever organizational model were adopted in any particular case—that is, whether the original draft report was prepared internally or externally—the final report, incorporating the decisions and rationale adopted by the Commission, was written by Commission counsel.

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18 The Commission's project selection criteria are set out in Ontario Law Reform Commission, *Annual Report 1993-94* (1994), at 9-10.

19 From the beginning, the Commission has relied heavily for its research on outside academics. The reasons for adopting this organizational model, at least initially, are discussed in *Annual Report 1967, supra,* note 12, paras. 8-11, at 6–7.

20 *Ibid.*, para. 12, at 7. See, also, *ibid.*, para. 113, at 28, where it is stated that "[t]he closest consultation with those in and out of the legal profession is necessary to avoid any attempt at problem-solving in a vacuum".

When completed, the final report was delivered to the Attorney General.[21] While it is not required by the statute, as a matter of practice, all Commission reports were tabled by the Attorney General in the Legislature.

IMPLEMENTATION OF COMMISSION REPORTS

Any attempt to measure the success enjoyed by a law reform agency must consider the extent to which its proposals for reform have been implemented. In this respect, the Commission has enjoyed considerable success. The impact of the Commission's work on the law of Ontario has been both substantial and enduring. Since its inception, the Commission has issued ninety substantive reports.[22] The majority of them have been implemented, either in whole or in part.[23]

While the statistics indicate that the Commission has had a favourable implementation rate, the nature of the law reform process suggests that the true implementation rate might be somewhat higher. Most of the reports that have yet to be implemented are those that have been issued most recently by the Commission. This phenomenon, it is suggested, is due to "a certain inertia in the legislative process and the fact that developing and carrying out a legislative program is a long-term process".[24] For example, the Commission's *Report on Class Actions,* which was issued in 1982, was not implemented until ten years later. Since it takes time to achieve the necessary consensus, and to obtain the necessary time on the legislative agenda, "[i]t is unrealistic to expect early action on recommendations which call for a major legislative initiative".[25] Further, as the Commission has noted, there are often numerous extraneous factors affecting implementation:[26]

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21 Section 2(3) of the *Ontario Law Reform Commission Act, supra,* note 1, provides that "[t]he Commission shall report from time to time to the Attorney General".

22 This excludes the annual reports, study papers, consultation papers, and other publications issued by the Commission that do not contain recommendations for reform.

23 Details of the implementation of the Commission's reports are set out in Appendix B, which identifies 54 reports that have received partial or total implementation. The half dozen reports recently published by the Commission have not yet had time for consideration by the Government. The implementation rate to date is thus close to two-thirds.

24 Law Reform Commission of British Columbia, *Annual Report 1989/90* (1990), at 50.

25 *Ibid.*

26 *1991 Ontario Law Reform Commission Report* (1991), at 7.

> Implementation is a function of many variables, only one of which is the cogency of the recommendations. Commissions make recommendations based on analysis of law and policy which the incumbent government may not share at any given moment. Far from taking away from the merit either of the recommendations or the government's response, it merely demonstrates that in public policy, the 'urgent' often overwhelms the 'important', and the duty to decide which is which belongs to governments.

We would be remiss in discharging our responsibilities, however, if we did not encourage the government of the day to attempt to find space on the legislative agenda for law reform measures. The modernization of the administration of justice requires ongoing attention. There are a number of existing commission reports that, if implemented, would not only improve the quality of justice administered by the system, but would also increase the efficiency with which that justice is administered.

Finally, we observe that the value of the Commission's reports cannot be measured solely by reference to the rate of legislative implementation. Regard must also be had to the various other ways in which the reports might influence law and policy, for example, through their impact on judicial decisions and legal scholarship. By this measure, as well, the Commission has enjoyed some considerable success. The Commission's reports have often been cited in judicial decisions in Ontario and throughout the rest of Canada, as well as in academic and other legal literature.[27]

CONTINUITY AND CHANGE: THREE DECADES OF LAW REFORM

As we noted above, the Commission's agenda has always had a dual focus. From its earliest days, the Commission addressed a broad range of topics, from the highly technical subject of the rule against perpetuities, to its early work respecting the reform of matrimonial property law.[28]

Throughout its history, the Commission has published numerous reports in which it addresses issues of contemporary social significance. Early examples include our *Report on The Protection of Privacy in Ontario* (1968), *Report on Sunday Observance Legislation* (1971), *Report on Motor Vehicle Accident Compensation* (1973), *Report on Family Law, Part IV: Family Property Law* (1974), *Report on Class Actions* (1982), *Report on Human Artificial Reproduction and Related Matters* (1985), and *Report on Political Activity, Public Comment and Disclosure by Crown Employees* (1986). More recent examples include our *Report on Damages for Environmental Harm* (1990), *Report on Child Witnesses* (1991), *Report on Testing for AIDS* (1992), *Report on Drug and Alcohol Testing in the Workplace* (1992), *Report on the*

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27 A non-exhaustive list of judicial and academic references to publications of the Ontario Law Reform Commission is set out in Appendix C.

28 A complete list of the Commission's publications appears in Appendix A.

Rights and Responsibilities of Cohabitants Under the Family Law Act (1993) and *Report on Genetic Testing* (1996).

The Commission has also undertaken many projects involving technical and complex areas of the law. Some recent examples include our *Report on Contribution Among Wrongdoers and Contributory Negligence* (1988), *Report on the Law of Standing* (1989), *Report on Covenants Affecting Freehold Land* (1989), *Report on Administration of Estates of Deceased Persons* (1991), *Report on Pensions as Family Property: Valuation and Division* (1995), *Report on the Law of Charities* (1996), and *Report on Basic Principles of Land Law* (1996). It might be argued, however, that the attempt to locate reports along the social-policy/technical-law continuum is ultimately unproductive. While some might suggest that reports involving technical law are of interest primarily or exclusively to the legal profession, since the recommendations often attempt to render the law not only more equitable, but also more comprehensible, accessible, and affordable, in fact they are often of considerably broader interest. Further, the suggestion that such projects are of interest only to lawyers ignores the reality that even "lawyers' law" has a significant policy dimension.

The work of the Commission evolved with the times. For example, the Commission diversified the range of individuals and groups with whom it consulted, and to whom its reports were addressed. Further, in addition to the advisory boards ordinarily constituted in connection with each project, the Commission created a continuing advisory board, in 1989, to advise the Commission generally with respect to its agenda and its work.[29] The Commission also broadened the range of its products to include not only formal reports, making recommendations for legislative reform, but also consultation papers and study papers. In addition, the Commission investigated new and innovative methods by which it might continue to fulfill its mandate. For example, the Commission engaged in a collaborative effort with the Ontario Civil Justice Review, the first effort of this kind undertaken by the Commission.

The Commission once noted that "[t]he central task of law reform is the systematic, long-range, continuous review of the law, a task that will last as long as the democratic process of making laws continues".[30] Although the need for the performance of this task will continue, the context of law reform has changed considerably since the Commission was established in 1964.

In 1992, the Commission participated in a reevaluation of the Commission's future role and mandate, which was undertaken particularly in light of the increasing fiscal crisis. The review focused on a broad range of issues, including not only the Commission's role and mandate, but also its size and composition, staffing and internal structure, internal procedures, consultation processes, and budget. Although the Commission's budget was ultimately reduced by approximately thirty-seven percent as a result of this review—resulting, among other things, in a reduction in the number of both professional and other staff—its continued existence was

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29 The current members of the Advisory Board are set out in Appendix D.

30 Ontario Law Reform Commission, *Tenth Annual Report 1976* (1977), at 20.

secured, as it happens, only for the moment. During that process, the Commission took the opportunity to articulate once again the numerous advantages provided to the government by the existence of an independent law reform commission. For example, government policy divisions are often preoccupied with issues of immediate concern. An independent Commission, on the other hand, is able to undertake projects involving issues that might not be capable of instant resolution, but rather require careful consideration over a period of time. Similarly, an independent Commission is able to undertake projects involving issues that do not form part of the government's current political agenda, or issues that might be too contentious politically for the government to address directly. Moreover, an independent Commission is able to consider issues in which the government might have a conflict, for example, where the government's own procedures, policies, or institutional interests are under review.

Public interest or other advocacy groups are often committed to one side or the other of a specific social issue. An independent law reform commission, by contrast, is able to consider the issues, and make its recommendations, having regard to the more general public interest. It is also able to assess dispassionately the arguments advanced by opposing groups. An independent law reform commission is particularly well situated to enable it to integrate its research with public policy in formulating its proposals for reform.

Finally, the independence of the Commission, the prestige associated with its work, and its practice of publishing its findings in permanent form have enabled it, over time, to attract the energies and talents of a broad range of academic consultants and others with specialist expertise of the highest quality.

The developments that have occurred in law reform obviously had important implications for both the work of the Commission, and the way in which it was performed. In our view, however, neither those developments nor recent events have lessened the need for the kind of contribution that an independent law reform agency can make to the ongoing improvement and modernization of our legal system. With the demise of the Commission, then, one of the challenges confronting those who seek to improve both the quality and the accessibility of the administration of justice within the province must be to fashion new institutional arrangements capable of meeting that need.

PROJECTS COMPLETED DURING THE REPORTING PERIOD

In the period from April 1, 1994 to December 31, 1996, the Commission completed and published the following reports and study papers.

1. *Report on Pensions as Family Property: Valuation and Division*

In our *Report on Pensions as Family Property: Valuation and Division*, the Commission deals with four areas of reform. These are: (1) guidelines for the valuation of pensions for equalization purposes under the *Family Law Act*; (2) the creation of two additional settlement options where one of the family assets is a pension (a transfer of a share of the value out of the pension plan to another locked-in pension, and a benefit split of the pension to be paid at retirement); (3) the status of so-called "if and when" agreements and orders under section 51 of the *Pension Benefits Act*; and (4) the division of *Canada Pension Plan* benefits on marriage breakdown under the *Family Law Act*.

In developing options for sharing pension assets on marriage breakdown, the Commission was guided by a number of principles. These principles did not always point in the same policy direction, and it was necessary to attempt to achieve an appropriate balance in formulating our proposals. The major underlying principles guiding our analysis are:

- Family property should be divided fairly and equally with due regard being given to the unique nature of pension assets.

- The overall regime for dealing with pensions should be flexible enough to accommodate the different needs and circumstances of the parties involved.

- Given that the overall purpose of pensions, from both an individual and a societal perspective, is to provide income security on retirement, the regime should encourage the payment of pension benefits at retirement to both parties.

- Costs to the parties should be minimized and the need for recourse to the courts reduced.

- To the greatest extent possible, the process for pension division at source should be streamlined and should not place an undue financial burden on pension plan administrators.

In devising solutions to the problems posed by pension division and valuation under the current law of Ontario, we have attempted to devise a scheme that appropriately balances the needs of the parties, the philosophy of the *Family Law Act* with respect to the equal sharing of

assets on marriage breakdown, and the concerns of plan administrators who bear the responsibility for pension division at source.

Given the highly complex and varied nature of pension assets and the need for flexibility in the legal response to division and valuation issues, recommendations set forth in this report are necessarily rather complex. In the application of this scheme to individual cases, however, we believe that the choices made available to the parties under these proposals are both fair and easily understood.

2. *Report on Avoiding Delay and Multiple Proceedings in the Adjudication of Workplace Disputes*

In our *Report on Avoiding Delay and Multiple Proceedings in the Adjudication of Workplace Disputes*, the Commission examines administrative tribunals that resolve disputes arising in the workplace as a context within which to consider more general issues relating to the reform of administrative law. More particularly, the report examines the substantial length of time absorbed by dispute resolution processes in seven statutory contexts—under the *Labour Relations Act*, the *Employment Standards Act*, the *Industrial Standards Act*, the *Occupational Health and Safety Act*, the *Human Rights Code*, the *Pay Equity Act,* and the *Employment Equity Act*.

The report then considers two possible methods of reducing the time absorbed by these processes—a modification of the internal procedures of each tribunal and an elimination of the phenomenon of multiple proceedings arising from a single dispute.

The Commission concludes that the internal operation of each tribunal would be greatly facilitated by the introduction of three modifications to their rules of practice and procedure. First, each tribunal should provide for a case management system that would require each dispute to be moved along from complaint to hearing at a fixed pace. Experiments with case management in the civil courts appear to have enjoyed success in reducing delay. In order to test whether case management can successfully be transplanted from civil litigation to the administrative sphere, a case management system should be implemented on a trial basis. Second, each tribunal should implement a program of mediation, also to be tested through a pilot program. Third, to ensure that the tribunals' time and energy are not being devoted to disputes that have no reasonable chance of success, and to ensure that the rules of practice and procedure are followed, it is recommended that each tribunal have the capacity to dismiss cases without a hearing.

Multiple proceedings arise when parties take advantage of the fact that the jurisdiction of a number of administrative tribunals overlap and bring successive complaints to different tribunals. As a result of this practice, the resources of a number of tribunals have to be marshalled to resolve what is essentially one dispute. In the Commission's view this practice should be reduced if not eliminated by giving each tribunal the jurisdiction to interpret and apply

the governing legislation of other tribunals and by requiring all other tribunals to defer to a decision rendered in this manner.

In order to ensure that tribunals interpret and apply external law competently, the Commission also recommends that a system of training take place so that adjudicators in one administrative regime become familiar with the law of other related regimes. In addition, the Commission recommends that tribunals have (i) the ability to hold consolidated hearings, (ii) the ability to request a legal opinion from another tribunal, and (iii) the ability to make findings of fact in the event a dispute is transferred to another tribunal for adjudication. Finally, in order to ensure that a party has all remedies available and that the party does not get compensated more than once for the same injury, recommendations are made with regard to the compensation principles that should be applied in cases where more than one statute is applied by a single tribunal.

3. *Study Paper on the Prospects for Civil Justice*

The *Study Paper on the Prospects for Civil Justice* was prepared by Professor Roderick A. Macdonald of the Faculty of Law, McGill University. The paper was commissioned by the Fundamental Issues Group of the Ontario Civil Justice Review, in collaboration with the Ontario Law Reform Commission. Professor Macdonald was asked to identify and analyze the critical policy issues entailed in a fundamental reconsideration of civil disputing in Ontario.

Professor Macdonald's paper is divided into two main parts: recognizing, creating and formulating civil disputes (Part 1), and allocating civil disputes so as to enhance access to justice (Part 2). Part 1 of the study looks at the different ways by which the Legislature and the courts give concrete form to civil disputes. Part 2 of the study then examines the range of factors that might go into decisions about how, where and when to process different types of civil disputes.

In addition to Professor Macdonald's paper, the study paper includes commentaries by Harry W. Arthurs, William A. Bogart, Owen Fiss, Marc Galanter, Bryant Garth, Cyril Glasser, Deborah R. Hensler, George L. Priest, Peter H. Russell, Susan S. Silbey, Lynn Smith, Michael J. Trebilcock, and Garry D. Watson. The members of this distinguished panel were invited to review and reflect upon Professor Macdonald's paper and offer the Fundamental Issues Group further views on the reform of the civil justice system.

4. *Report on the Law of Coroners*

In the *Report on the Law of Coroners* the Commission re-examines the coroner system in the province. Since the Commission's 1971 *Report on the Coroner System in Ontario* there have been a number of significant developments. New challenges to the investigative and public inquiry roles of coroners have been presented by developments in the legal system. The recently developed legal duty to act "fairly" has been extended by judicial decisions to apply to the procedures of all public and statutory decision-makers, thus including coroners. The courts have

expanded the concept of "standing" at coroners inquests, which has resulted in an increase in the number of parties and the complexity associated with inquests. Finally, the entrenchment of the *Canadian Charter of Rights and Freedoms* constrains the manner in which the province can design investigative powers and procedures for hearings.

As a threshold question, the Commission considers whether there exists a compelling rationale for maintaining a publicly funded system to inquire into deaths in the province. The Commission concludes that a modern community that values the life and dignity of its members should have a vehicle for inquiring into suspicious and preventable deaths, and deaths of vulnerable members of the community.

The report examines the present law and operation of the coroner system in Ontario. This comprises a discussion of a variety of topics, including the appointment of coroners and the structure of the coroner system, the statutory duties to notify the coroner in the event of certain deaths, the investigation conducted by the coroner, and the ordering and conduct of coroners' inquests. This latter topic includes a discussion of the general characteristics of the inquest, the duty of fairness, standing at coroners' inquests and the right to participate, the admissibility of evidence, as well as the jury's findings and recommendations. Also included is a discussion of certain constitutional considerations, including possible intrusion into federal jurisdiction and the impact of the *Charter*. Coroner and medical examiner systems in existence in Canada are reviewed and the differences that exist among the various jurisdictions are noted. The report then considers certain proposals for reform made in other provinces.

The Commission recommends that there should be two types of coroner, namely "investigating coroners" and "presiding coroners". Investigating coroners would be medically qualified, and would be responsible for all initial investigations and pre-inquest case preparation. Presiding coroners, on the other hand, would be legally qualified, and would be responsible for conducting inquests.

In light of the *Canadian Charter of Rights and Freedoms* and the recent decision of the Supreme Court of Canada in *R. v. Colarusso*, the report concludes that, while some flexibility ought to be given to the coroner in the performance of a proper provincial function, the coroner's current powers of entry, search, and seizure are too broad and far-reaching. The Commission recommends that the investigating coroner's right to enter and take possession of the body, and evidence relevant to the investigation or subsequent inquiry, should be authorized by application to a justice of the peace, with a few exceptions.

In addition to retaining the current categories of mandatory inquest, the Commission recommends that a mandatory inquest should be conducted whenever a peace officer may have caused or contributed to a death while acting within the course of their duties.

With respect to standing at inquests, the report recommends that standing should be granted to any person or group that has a sufficient connection to the death or the subject-matter

of the inquest, or a genuine interest in a material issues, and can add an important dimension to the inquiry.

A number of the commission's recommendations will reduce the cost of conducting inquests. For example, in the case of mandatory inquests, the presiding coroner should have the power to dispense with the need for a jury if they are satisfied that the death was the result of natural causes and there is no allegation of want of care of culpable conduct. Moreover, the Commission concludes that the practice of conducting pre-inquest hearings should be made a formal component of the inquest process and it is anticipated this measure will reduce the time actually required at the inquest.

Finally, with respect to follow-up on the jury's recommendations, the Commission concludes that the Chief Coroner should be required to inquire as to their implementation. Also the Chief Coroner's office should compile and publish an annual report, which should include an analysis of the implementation of jury findings, including the specific responses of individuals or agencies affected by the recommendations.

5. *Rethinking Civil Justice: Research Studies for the Civil Justice Review*

These two volumes are comprised of research papers examining various aspects of the administration of civil justice and its reform, which earlier were submitted to the Ontario Civil Justice Review. The Ontario Civil Justice Review was a joint initiative of the Government of Ontario and the Ontario Court of Justice (General Division). In its terms of reference, the review was mandated to develop an overall strategy to provide a structure for the civil justice system that is speedier, more streamlined and more efficient, and that will maximize the utilization of the public resources allocated to civil justice. The review conducted its mandate through two working groups - the Interim Task Group, and the Fundamental Issues Group.

The Interim Task Group was responsible for identifying immediate points of pressure on the civil justice system, and for developing short-term and intermediate-term proposals for dealing with those pressures. The Fundamental Issues Group was responsible for dealing with longer range issues. Although the Civil Justice Review was not a project of the Ontario Law Reform Commission, it was nonetheless anticipated that the Commission would contribute in some fashion to the work of the Review by undertaking special projects from time to time. In this respect, the Ontario Law Reform Commission collaborated with the Fundamental Issues Group on a number of research studies, which addressed the following issues: (1) public perceptions of the civil justice system; (2) empirical studies of administrative agencies and court files; (3) the choice of governing instruments - defining an appropriate domain for civil claims; (4) the allocation of civil disputing forum; (5) enhancing the performance of the court system; (6) enhancing the performance of the administrative justice system; and (7) barriers to access to civil justice for disadvantaged groups. These resulting papers are published in these volumes.

Three papers were undertaken by colleagues in the Policy Branch of the Ministry of the Attorney General, Sandra Wain, Larry Fox and John Twohig. Ms. Wain examined the available

evidence relating to public perceptions of the administration of civil justice. Mr. Fox gathered together empirical evidence relating to the current operation of the system of administrative justice in Ontario. Mr. Twohig was the principal researcher in a project which mounted an empirical study of the workload of the civil courts over the past few decades.

A further series of commissioned papers grappled with the related questions of firstly, whether the creation of a right to make civil claims is the only or the preferable device for regulating conduct of various kinds and secondly, assuming that a decision to select this means of regulation has been taken, which types of civil claims are appropriate for the courts as opposed to other modes of adjudication. Professor Michael Trebilcock of the Faculty of Law, University of Toronto and his colleague, Professor Robert Howse, considered the role of civil justice as one of a possible range of instruments of governance. Professor Lorraine Eisenstat Weinrib of the Faculty of Law of the University of Toronto, and Professor Martha Jackman of the Faculty of Law, University of Ottawa, prepared papers examining the role of the courts in the resolution of civil disputes and the appropriateness of reallocating disputes either to the courts or to administrative agencies.

Another series of papers examined possibilities for reforming adjudicative processes both in the civil courts and in the system of administrative justice in Ontario. Professor Kent Roach of the Faculty of Law of the University of Toronto, prepared a paper examining various models for fundamental reform to civil litigation in the courts. Allan Stitt, Frances Handy and Peter A. Simm of the Ontario Bar examined the potential role for alternative dispute resolution in the civil justice system. Professor Iain Ramsay, of Osgoode Hall Law School of York University, examined the role and operation of the small claims courts. A paper considering a possible range of fundamental reforms to the administrative justice system was prepared by Margot Priest of the Ontario Bar.

Finally, various issues relating to the barriers to access to civil justice that impede effective use of the civil justice system by disadvantaged groups was prepared by Ian Morrison of the Clinic Resource Office and Professor Janet Mosher of the Faculty of Law of the University of Toronto.

6. *Report on the Use of Jury Trials in Civil Cases*

In March 1994, the Commission released its *Consultation Paper on the Use of Jury Trials in Civil Cases*. The Commission had been specifically requested to consider whether the additional public costs associated with jury trials could be justified in civil cases. The consultation paper arrived at a tentative conclusion that "juries should be available, upon judicial order, only where the predominant issues in the action concern the values, attitudes or priorities of the community and the ends of justice will be best served if the findings of fact or assessment of damages are made by a jury." Further research and deliberations were undertaken before the Commission drafted its *Report on the Use of Jury Trials in Civil Cases.*

In the report, the Commission reviews historical information and the present law respecting the civil jury in Ontario. The experience in other jurisdictions regarding the availability and use of the civil jury, and the imposition of jury fees is examined. Also, the arguments both for and against the retention of the civil jury are re-evaluated by the report. The consultation process is described, the results of the Commission's empirical studies, into the relative length and cost of civil jury trials, are presented, and the impact of jury service on jurors is considered.

The Commission concludes that civil jury trials do not cost taxpayers a significant amount, and do not result in increased use of courtroom facilities. Moreover, consultations with judges, lawyers, and jurors indicate that the individuals actually involved in such trials are in favour of their continued existence by a substantial majority.

The report then turns to consider a number of specific issues. The Commission recommends that the present law should not be amended to impose a user fee on a party to an action who requires that the action be tried with a jury, as this would mean the ability to pay would interfere with a litigant's right to choose their mode of trial.

At present, actions against federal, provincial, and municipal governments must be tried without a jury. One of the arguments that is often invoked in favour of retaining the jury for civil matters is that the jury represents a safeguard against the abuse of power by government and, to a lesser extent, by judges. The Commission concludes that the legislation prohibiting a jury in actions against government should be repealed.

In an effort to preserve the presumption in favour of the availability of the jury, the report concludes certain amendments should be made regarding the right to dispense with the jury, either before or at trial. For example, a jury notice should be struck out as inappropriate where the nature of the law at issue is too complex or uncertain for the jury, when properly instructed, to comprehend; where the substantive issues in the case are essentially issues of law and the issues of fact are negligible; or where the issues of law and fact are inextricably interwoven. The Commission further recommends that judges should strike out a jury notice where they are of the opinion, after considering the nature of the case and the inconvenience that jury duty entails for many individuals, that a jury trial is not warranted.

Finally, the Commission recommends that trial judges should have the power to consider and represent the interests of the jurors, who are otherwise unrepresented at the trial, and to dismiss the jury on their own initiative where it would be appropriate to do so in order to protect the interests of jurors.

7. *Study Paper on Assisted Suicide, Euthanasia and Foregoing Treatment*

The *Study Paper on Assisted Suicide, Euthanasia and Foregoing Treatment* was prepared by Professor J.M. Gilmour of Osgoode Hall Law School at York University with additional chapters by Karen Capen of the Ontario Bar, and Professors B. Sneiderman of the Faculty of

Law, University of Manitoba and M. Verhoef of the Department of Clinical Epidemiology, University of Calgary. The paper examines the existing legislative framework governing decision-making about this area of health care, as well as the state of the law in other jurisdictions.

The analysis of the legal issues involved in assisted suicide and euthanasia is complicated by the fact that the issues fall under the jurisdiction of the federal government, the provincial government, or both. The question of decriminalizing assisted suicide and euthanasia is a matter that must be determined by the federal government. However, health care is primarily regulated by the provinces. There are, then, aspects of the law affecting assisted suicide and euthanasia that fall within provincial jurisdiction but there is also a need to consider federal law as it affects and overlaps with those aspects. Criminal law, for instance, sets limits on professional standards and practices of health care providers. The regulation of the health profession is a matter clearly within provincial jurisdiction. The provinces also have jurisdiction over the administration of the criminal justice system and therefore decisions about enforcement such as investigations, charges laid, and prosecutions are regulated by the provinces.

The paper reviews the existing legislation, in particular the *Health Care Consent Act, 1996* and the *Substitute Decisions Act*, and the common law which provide a framework to govern health care decision-making by patients capable of making decisions and on behalf of those who are not capable. Essentially the patient's wishes are to prevail; if the patient is not capable of making decisions and their wishes are unknown or cannot be followed then the substitute decision maker, designated either by the patient or by legislation, is to make the decision in the patient's best interests. Since the legislation is new, there are still unanswered questions about its interpretation - for instance, the meaning of the term "best interests". The paper concludes that in making decisions to end life-sustaining treatment, for legal purposes, there is no distinction to be drawn between withholding and withdrawing life-sustaining treatment. The importance of addressing the potential for discriminatory considerations to insinuate themselves into the decision-making process is noted. Further study regarding health care and discrimination on the bases of disability, sex, age, race and other impermissible factors is proposed by the paper.

The issue of palliative care, an important option in end-of-life health care, is discussed in the paper. The availability of palliative care is limited and it is recommended that such programs be supported and expanded as an integral part of a comprehensive health care system. Also recommended is greater education and training for health care professionals in pain management and control, not just in palliative care but in general. Professional standards should make it clear that relief of suffering, through an appropriate regimen of pain medication, is a professional duty that health care providers owe patients. The study paper also recommends that the federal government amend the Criminal Code to confirm the legality of providing necessary treatment for the purpose of eliminating or alleviating pain, even if the treatment shortens life.

With regard to futile treatment, at the level of policy, the paper recommends that the issue be recognized as one suited to societal determination rather than medical determination.

The enforcement of criminal law in this area, which currently leaves much to prosecutorial discretion, is examined. The paper suggests that measures be taken to make the exercise of discretion more accountable and predictable, and to ensure that the law in this area reflects public morality. Accordingly, the study paper proposes that the federal government amend the Criminal Code to provide for the possibility of a less severe penalty in cases where an offender takes the life of another but acts out of compassion or mercy, although a maximum penalty of life imprisonment would still be retained. Further study is also recommended as to the feasibility of developing more detailed policy on charging decisions in these cases. Further, it is recommended that the federal government amend section 241(b) of the Criminal Code to permit physician-assisted suicide at the request of a person capable of making decisions, who is suffering from a terminal illness or from a chronic irreversible illness that causes them unbearable suffering that cannot be alleviated by means acceptable to the patient. This type of assistance would have to be provided under clearly defined limits and safeguards with euthanasia continuing to be a criminal offence.

Finally, the study paper argues that needed health and social services be adequately protected by the government. Patients and substitute decision makers can already make decisions to abate life-sustaining treatment, after which it is expected that death will follow. The health care and social services that are available must remain clearly supportive of a choice for continued life where that is the patient's wish or in their best interests.

8. *Report on Genetic Testing*

The project on genetic testing is the third in a series of four projects initiated by the Commission with respect to the use of modern testing technologies. The series considers when and how to give recognition to the individual's right to privacy.

The *Report on Genetic Testing* considers the development of genetic testing and how the information derived therefrom raises serious concerns about privacy and confidentiality. These concerns are exacerbated by the ability of genetics to predict health risks not only for the individual tested, but for blood relatives and potential offspring. While genetic information is unique from all other information, it can be subsumed within the context of medical information generally. The number of possible abuses of genetic information - denial of insurance, discrimination in employment, or an increase in litigation, to name but three - are reviewed by the report.

With particular reference to the use of genetic information for insurance purposes the Commission recommends that there should be a five-year moratorium on requests for genetic testing, questions about genetic conditions, and requests for access to genetic information in medical records, to provide an opportunity for all concerned to develop sound policies. Although comparable to a total prohibition, this could forestall a more radical legislative response based on public perceptions of the industry profiteering from "congenital bad luck".

As the use of genetic testing in the employment context becomes more pervasive, the Commission recommends that the Human Rights Commission issue an interpretive rule providing that genetic conditions, both present and future, fall within the ambit of its legislative protection, rendering the need for specific amendments to the Ontario Human Rights Code unnecessary. The Commission also recommends that specific and informed consent should be required before any type of genetic testing is performed on a worker or job applicant. Further, the Commission recommends that a uniform bill on health care information access and privacy should be enacted, which would apply to private and public sector employers, and outline clearly the duties of occupational physicians as well as the rules governing employer access to health information.

There are serious consequences linked to the introduction of DNA paternity testing in Canadian courtrooms as it will clearly distinguish social parents from biological parents at a time when the evolution of family law has moved away from an emphasis on genealogical origins towards respect for the real living context and interests of the child and the family. In light of these difficulties, we have concluded that regulations should be passed by the Ontario government, pursuant to section 11 of the *Children's Law Reform Act,* that take into account the advent of DNA testing and its serious implications, for both family stability and for the well-being of the child.

In genetic testing, respect for free and informed procreative decision-making, for vulnerable populations, for the freedom and responsibility inherent in "professionalism", and for the basic values of a given society also form the background against which the extent of potential physician or institutional liability for genetic malpractice must be situated and measured. Neither the courts, the physician, nor the patient, can be the sole arbiters of genetic malpractice. Accordingly, the Commission recommends that the Ministry of Health should establish regulations that prescribe minimum or appropriate standards for genetic testing, personnel training and education in the area of medical genetics, and the accreditation of genetic laboratories.

The Commission examines various issues concerning proprietary rights in genetic material and recommends that legislation should be enacted directing the courts to take an expanded approach to the characterization of human genetic material as an extension of the person, and thus crucial to his or her bodily integrity, and requiring express informed consent for any present or future use.

In the final chapter of the report the Commission concludes that in order to ensure the privacy of health information, including genetic information, data protection legislation should be enacted to regulate acquisition, safe storage, use and transfer of such information. As well, the legislation should establish effective mechanisms for enforcement, including a privacy right of action by the aggrieved party and significant penalties for persons or institutions who breach the legal requirements.

Further, the Commission recommends that a physician should be permitted to disclose genetic information to at-risk relatives only if the following conditions are satisfied: (1) reasonable attempts to elicit voluntary disclosure are unsuccessful; (2) there is a high probability of serious harm to an identifiable third party; (3) there is reason to believe that disclosure of the information will prevent harm; and (4) the disclosure is limited to the information necessary for diagnosis or treatment of the relative. Accordingly, where the genetic disorder is not serious, where it is likely to be diagnosed or is of relatively common knowledge, or where there is no known treatment or prevention, disclosure would not be permitted.

The Project Director for the Commission's genetic testing project was Professor Bartha Maria Knoppers, of the Faculty of Law, University of Montreal.

9. *Study Paper on Legal Aspects of Long Term Disability Insurance*

The *Study Paper on Legal Aspects of Long Term Disability Insurance* was prepared by Professor Marvin G. Baer, of the Faculty of Law, Queen's University. It examines a number of substantive and procedural issues relating to the existing schemes of long term disability insurance. The substantive issues discussed relate to the application for coverage, the coverage provided by the policy, and the making of claims. The procedural issues addressed include the dispute resolution mechanism and the availability of information about coverage.

The study paper reviews the nature of existing insurance law and its regulation, which has developed in a piece-meal fashion with a variety of administrative and legislative approaches designed to meet perceived shortcomings with the common law. The paper cautions against the further disintegration of insurance law by treating disability insurance law in isolation. Instead, it is recommended that improvements in the law, in relation to disability insurance, be undertaken as the first step in the reform and restatement of basic concepts common to all types of insurance and the greater harmonization of the existing parts of the *Insurance Act.*

The paper discusses the common law development of the unique insurance doctrines which govern the application for coverage, the obligations of the insured under the policy, and the making of claims. These doctrines are based on the recognized need, on the part of insurers, to identify and control the risks that they accept under the policy and to protect themselves from unmeritorious claims. However, the obligations placed on the insured have, in some instances, become too onerous, the limits on coverage too arbitrary or unexpected, and the remedy available to the insurer (denial of the entire claim) too oppressive. A number of ways to balance the interests of the parties more fairly are considered, including several ways that are already included in the *Insurance Act* and applied to other types of insurance.

After reviewing several options, the paper recommends the reform of several basic insurance law doctrines, the adoption of the general provincial rules governing deceptive acts or practices, and the clarification and more active use, by the Insurance Commissioner, of the authority to control unfair or unreasonable contract terms and claims procedures.

Some of the recommendations for reforms of basic insurance law doctrines are based on those adopted in Australia in 1984. They include reforms which place reasonable limits on the insured's obligation to disclose material facts during the application process; modifying insurance warranty doctrine so that an insurer could only rely on a prohibited act that has actually caused or contributed to the loss; and adopting a principle of proportionality which would limit the insured's recovery, rather than deny the claim completely, in the event of improper conduct. Other reforms are based on existing Canadian judicial and legislative developments, including a recognition of the evidentiary nature of the requirements after loss, an expended application of the courts' authority to relieve against forfeiture, and an increased responsibility on insurers to compensate the insured for the costs that result from mishandling or delaying claims.

The paper also recommends that some terms of the policy be standardized and made mandatory, while others be subject to the control of the Insurance Commissioner who should act only after there has been an opportunity for public input. A similar type of administrative control now exists for Automobile insurance. The paper also contains a number of tentative recommendations on specific issues of coverage that have generated public concern.

The need for a cheaper and more efficient method of resolving disputes involving long term disability claims is recognized. The two existing systems used in Ontario for the resolution of long term disability claims are reviewed, and the paper recommends the expansion of the existing mediation and arbitration system, under the Automobile Part of the *Insurance Act*, to cover disputes involving long term disability claims.

10. *Study Paper on Psychological Testing and Human Rights in Education and Employment*

The *Study Paper on Psychological Testing* was prepared by Professor A. Wayne MacKay of the Faculty of Law, Dalhousie University, and Pam Rubin of the Nova Scotia bar. The paper assesses standardized psychological testing and the legal redress open to those experiencing discrimination due to testing. The paper considers the following three aspects of psychological testing: (1) the history of testing and the attitudes surrounding its advent; (2) the impact of testing on employment; and (3) the use of testing in allocating educational opportunities and resources and the long term equality consequences of these decisions. Throughout the paper, the impact of psychological testing on privacy and the legal protections against privacy compromises are evaluated.

In the survey of the history of standardized psychological testing the paper explores the cultural assumptions and economic pressures behind its popularity, the adverse impact testing has on various groups, and the basic equality guarantees under the Charter and the Ontario Human Rights Code. The discussion on the affect of testing on different groups within our society addresses people who are explicitly protected by legislation (for example racial and ethnic minorities, women, and persons with disabilities), others who are not protected by legislation (such as those whose first language is not English, and people without money), and

those who experience compound discrimination from testing in ways not contemplated by legislation, such as black women. The paper examines the basic legal methods available in Ontario for challenging discrimination caused by testing. The Human Rights Commission process is particularly scrutinized in terms of the obstacles complainants' experience when bringing forward testing claims based on adverse impact or systemic discrimination and the difficulty the Commission has in sorting out expert technical testimony.

In considering the impact of testing on employment, the paper reviews the longer history of American jurisprudence that informs nascent Canadian law in this area. The one Supreme Court of Canada case in this area, *Action Travail*, is examined closely, and the upheld Tribunal level decision is analyzed and put forward as the type of proactive order necessary to remedy the impact of discriminatory testing with respect to systemic discrimination. Some of the substantive claims by the publishers of these tests, in the employment context, are explored along with the acceptance of these claims by society in general and the affect this has on the complainants' chances of success. The growing area of "integrity" testing and its great potential for discriminatory effects is discussed. In addition, the paper proposes the establishment of an independent agency to scrutinize the technical evidence concerning the efficacy of tests and their adverse impacts.

Finally the role of testing in education is reviewed by the paper and found to be useful in some contexts but misleading, unreliable and discriminatory in others. The discussion on testing in education makes use of different case studies to illustrate various points, these include: IQ testing; the use of LSAT scores in law school admissions; special education testing; and computer-assisted student evaluation. The paper also undertakes a detailed examination of Charter protections against testing discrimination, under section 15.

11. *Report on the Law of Charities*

This comprehensive *Report on the Law of Charities* responds to a reference on this topic to the Commission by the Attorney General. The terms of reference invited the Commission to examine and make recommendations concerning a number of questions which can be grouped under the following four topics; (1) the legal rules which determine the status of charities; (2) the legal forms of charities (trusts, corporations, and unincorporated associations) their varying powers, and the different liabilities and powers of trustees and directors of corporations; (3) the different sources of revenue for different kinds of charities and the manner in which the law restricts, to some extent, sources of revenue open to charities; and (4) the various organizations and groups who participate in the supervision of charities and the problems that result from the complex structure of its regulation.

The report recommends a comprehensive rethinking, redrafting, and re-organizing of the laws governing nonprofit organizations in Ontario. Much of the current legal framework is anachronistic, confused and contradictory and as a consequence, the government of Ontario is not, in the Commission's view, able to adequately fulfill its traditional facilitative and protective mandate in the sector.

The report begins with an extensive examination of the available evidence concerning the functioning of the charities sector and of the various previous studies of the sector undertaken in Ontario, elsewhere in Canada, and abroad.

Against this background, the report examines the legal definition of the concept of charity. The common law definition of "charity" serves numerous functions in the law. The main function is to identify those entities entitled to the privileged treatment that charities receive under the law of trusts and under taxation laws. The report suggests that these various uses do not warrant various definitions and recommends that the law should continue to use one definition of the concept.

Further, although the report identifies a number of problems with the definition, and recommends solutions to them, the report does not recommend enactment by the province of a new statutory definition. Rather, the report recommends that the common law definition continue to evolve in an incremental fashion, through the traditional methods of the common law, in light of the suggestions for improvement made in the report.

No common-law jurisdiction, to our knowledge, has ever formally addressed the question of the appropriateness of the various legal forms available to charitable organizations. It has never been asked: What are the natural or essential characteristics of this type of social organization and what, as a consequence, are its appropriate legal forms? Rather, circumstances have led to the adaptation of three main forms of organization, principally the trust and the corporation, but also the unincorporated association, which in essence is based in contract.

In our proposals for reform of the organizational law, the report adopts the following general approach. To resolve issues relating to organizational form, we look to the basic area of law from which the form is derived. Where an issue relates chiefly to the charitable function of the form, however, we resolve it by choosing rules that are best for charity, and, subject to necessary but minor variations, in a way that is identical for all three forms. In other words, we attempt to treat issues relating to organizational form distinctly from issues relating to regulation of the sector, although, of course, there is no possibility of completely separate treatment. As examples, issues such as the content of the fiduciary duties, the powers of charitable fiduciaries, and the structure of governance of charities are all resolved in our recommendations by looking primarily to the law of trusts for charitable trusts, modern corporations law for the charitable corporation, and basic contract law for the unincorporated association. But the treatment of a charity's property on dissolution, although inspired by the trust law *cy-près* doctrine, should, in our recommendation, be roughly the same regardless of the form of organization. And the state's involvement in ensuring that charitable fiduciaries fulfill their obligations of loyalty and prudence, should, again in our recommendation, be the same, regardless of the form.

The historical origin of the supervisory authority of the provincial government in the sector is the prerogative *parens patriae* of the Crown. The Crown exercises a *parens patriae* jurisdiction over all charities through the Office of the Attorney General. The Crown also exercises a prerogative power in relation to the disposition of general gifts to charity that do not

involve the interposition of a trust. This power is often referred to as "prerogative *cy-près*". Pursuant to it, the Crown through the Office of the Attorney General will devise a scheme for the specific disposition of property left to charity in general.

The historical *parens patriae* jurisdiction of the Crown has many facets. Generally speaking, at common law, the Attorney General was a necessary party in all proceedings in which there was a question regarding a charitable purpose trust or the powers of the trustees of a charitable purpose trust. Much, but apparently not all, of this power has now been delegated to the Public Trustee under the various provisions of the *Charities Accounting Act*.

In our proposals for reform of the provincial regulation of charities, we take the following general approach. First, we describe and recommend reforms to the agencies of the public administration in Ontario that have jurisdiction over charities, and other nonprofit entities, and we recommend reforms to the general regulatory framework governing charities. We also take up the principal areas of regulatory concern—fundraising, investment, political activity, and international activity—*seriatim*. Our basic recommendation is that a new agency—the Not-for profit Organizations Committee—be established and be given ample and effective powers of supervision over the sector. With respect to the other matters, we recommend greater regulation of fundraising activity, but otherwise our proposals for the provincial regulation of charities involve essentially clarification and simplification of the current system.

The report also sets out an examination of the federal supervisory regime for charities under the *Income Tax Act* and makes a number of suggestions for reforming that system which would be complementary to our proposed reforms of the provincial regime with a view to ensuring that the regulatory regime as a whole is as simple and coherent as possible.

Professor David Stevens of the Faculty of Law of McGill University acted as the Project Director on this project.

12. *Report on Basic Principles of Land Law*

In the *Report on Basic Principles of Land Law* the three topics forming the subject matter are successive interests, co-ownership, and easements. The basic principles of Ontario land law are derived from English common law, supplemented by old English statutes which were either made part of Ontario law by reception in 1792 or were the models from which Ontario statutes were copied. Considerable reform of basic principles of land law has been enacted in other Commonwealth countries, including England, and the United States of America. In Canada, including Ontario, there has been little significant reform of basic principles, although there has been reform in particular areas such as residential tenancies and condominiums.

Four themes are apparent in our treatment of these subjects. First, we have been concerned with bringing up to date the areas of law afflicted with archaic principles and rules. The law of successive interests provides many striking examples. This area of law is subject to a body of highly complex and often obscure rules, many of which have no functional justification in

modern Ontario. It is true that many of these rules, such as the legal remainder rules and the rule of *Purefoy v. Rogers*, (1671) 2 Wms. Saund. 380, can be, and routinely are, circumvented by appropriate drafting. However, this does not mean that their continuation in the law is not harmful. These rules are on occasion not circumvented so that they apply with unpredictable and capricious consequences. Or, after the expense of litigation they are held to have no application. Ironically, the cost of this sort of litigation is likely to be borne by the less well off since persons with modest property holdings are more likely unable to obtain the skilled advice that should lead to the circumvention of the rules. Finally, there are some bodies of archaic doctrine that are not readily circumvented even by skilled drafting.

A second theme is clarification. This is closely related to the modernization of archaic doctrine since archaic doctrines tend to be obscure, mainly because their rationales are unrelated to modern conditions. More generally, we have attempted to identify and reform areas of law that require clarification. The rights and obligations of co-owners in the occupation and management of co-owned land provides an example. This is an important area of law having practical effect on the lives of many people and yet the law is often unclear. The report proposes a statutory formulation of the rights and obligations of co-owners, providing a clear and fair system for guiding behaviour and resolving disputes.

A third theme is the re-evaluation of conceptual explanations for existing doctrines. This point can best be clarified by an example. In the present law of co-ownership, the concept of the "four unities" has a pervasive impact on the operation of the law. On the one hand, the four unities limit the types of arrangements that may be created as joint tenancies. On the other hand, they provide the key concept for determining the ways in which a joint tenancy may be "severed" by being changed into a tenancy in common. The report evaluates the functional justifications for these roles played by the four unities and proposes removal of their relevance. New rules for the creation and severance of a joint tenancy are recommended.

The fourth theme is simplification of the law by the assimilation of doctrines. One example is the continuing distinctions in the present law between real and personal property. Generally, there is no justification in modern circumstances for such differences, and in this report we continue the trend toward removing them. For example, our proposed reform of the law dealing with successive interests will have the practical effect of removing a large body of special rules applicable only to land and will make the same doctrines apply to real and personal property. The other major examples of assimilation of doctrine is the increased assimilation of covenants affecting land and of easements which will be carried out by our proposals on easements.

Timothy Youdan, of the Ontario Bar, served as Project Director of this project.

APPENDICES

Attached to this final report are six Appendices relating to the activities and staff of the Commission. Appendix A lists the reports and other publications of the Commission since its inception in 1964. Appendix B indicates the extent to which the Commission's recommendations have been enacted. Appendix C provides a non-exhaustive list of articles and cases in which the Commission's reports have been reviewed or cited. Appendix D contains a list of the members of the Ontario Law Reform Commission Advisory Board. Appendix E sets out the officers of the Ontario Law Reform Commission from 1964-1996, and the dates of their tenure, and Appendix F provides a list of the permanent staff of the Commission from 1964-1996, and the years of their service.

APPENDIX A

REPORTS OF THE ONTARIO LAW REFORM COMMISSION

Title	Date of Report
Report No. 1 [The Rule Against Perpetuities]	1965
Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]	1966
Report No. 2 [The Wages Act: Assignment of Wages]	1965
Report No. 3 on Personal Property Security Legislation	1965
Report No. 3A on Personal Property Security Legislation	1966
Report on The Evidence Act: Admissibility of Business Records	1966
Report on The Mechanics' Lien Act	1966
Supplementary Report on The Mechanics' Lien Act	1967
Report on the Proposed Extension of Guarantor's Liability on Construction Bonds	1966
Report on The Execution Act: Exemption of Goods from Seizure	1966
Report on the Law of Condominium	1967
Report on the Basis for Compensation on Expropriation	1967
Report on the Limitiation Period for Actions under The Sandwich, Windsor and Amherstburg Railway Act, 1930	1968
Annual Report 1967	1968
Report on Certain Aspects of the Proposed Divorce Legislation Contained in Bill C-187	1968
Report on the Proposed Adoption in Ontario of The Uniform Wills Act	1968
Report on The Protection of Privacy in Ontario	1968
Report on Section 183 of The Insurance Act	1968
Report on Trade Sale of New Houses	1968
Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies	1968

Title	Date of Report
Report on Limitation of Actions	1969
Second Annual Report 1968	1969
Report on the Age of Majority and Related Matters	1969
Report on the Status of Adopted Children	1969
Report on Family Law, Part I: Torts	1969
Report on Section 20 the The Mortgages Act	1970
Report on Family Law, Part II: Marriage	1970
Third Annual Report 1969	1970
Report on Actions Against Representatives of Deceased Persons	1970
Report on the Coroner System in Ontario	1971
Report on Sunday Observance Legislation	1971
Report on Land Registration	1971
Fourth Annual Report 1970	1971
Report on The Change of Name Act	1971
Report on The Mortgages Act, Section 16	1971
Report on Development Control	1971
Report on Powers of Attorney	1972
Report on Occupiers' Liability	1972
Report on Consumer Warranties and Guarantees in the Sale of Goods	1972
Report on Review of Part IV of The Landlord and Tenant Act	1972
Fifth Annual Report 1971	1972
Report on the Non-Possessory Repairman's Lien	1972
Report on Administration of Ontario Courts, Part I	1973
Sixth Annual Report 1972	1973
Report on Administration of Ontario Courts, Part II	1973
Report on Family Law, Part III: Children	1973
Report on The Solicitors Act	1973
Report on Motor Vehicle Accident Compensation	1973
Report on Administration of Ontario Courts, Part III	1973

Title	Date of Report
Report on Family Law, Part IV: Family Property Law	1974
Report on Family Law, Part V: Family Courts	1974
Seventh Annual Report 1973	1974
Report on the International Convention Providing a Uniform Law on the Form of the International Will	1974
Eighth Annual Report 1974	1975
Report on Family Law, Part VI: Support Obligations	1975
Report on Mortmain, Charitable Uses and Religious Institutions	1976
Report on Landlord and Tenant Law	1976
Report on the Law of Evidence	1976
Ninth Annual Report 1975	1976
Report on Changes of Name	1976
Report on the Impact of Divorce on Existing Wills	1977
Tenth Annual Report 1976	1977
Eleventh Annual Report 1977	1978
Report on Sale of Goods	1979
Twelfth Annual Report 1978	1979
Report on Products Liability	1979
Thirteenth Annual Report 1979	1980
Report on the Enforcement of Judgment Debts and Related Matters, Part I	1981
Report on the Enforcement of Judgment Debts and Related Matters, Part II	1981
Report on the Enforcement of Judgment Debts and Related Matters, Part III	1981
Fourteenth Annual Report 1980-81	1981
Report on Witnesses Before Legislative Committees	1981
Report on Class Actions	1982
Fifteenth Annual Report 1981-82	1982
Report on the Enforcement of Judgment Debts and Related Matters, Part IV	1983

Title	Date of Report
Report on the Enforcement of Judgment Debts and Related Matters, Part V	1983
Report on Powers of Entry	1983
Sixteenth Annual Report 1982-83	1983
Report on the Law of Trusts	1984
Seventeenth Annual Report 1983-84	1984
Report on Human Artificial Reproduction and Related Matters	1985
Twentieth Anniversary Report 1984-85	1985
Twenty-First Annual Report 1985-86	1986
Report on Political Activity, Public Comment and Disclosure by Crown Employees	1986
Report on Amendment of the Law of Contract	1987
Report on the Law of Mortgages	1987
Twenty-Second Annual Report	1987
Report on Compensation for Personal Injuries and Death	1987
Report on Contribution Among Wrongdoers and Contributory Negligence	1988
Report on Timesharing	1988
Twenty-Third Annual Report 1987-88	1988
Study Paper on Wrongful Interference with Goods	1989
Report on the Law of Standing	1989
Report on Covenants Affecting Freehold Land	1989
Report on Liability of the Crown	1989
Report on Damages for Environmental Harm	1990
Report on the Basis of Liability for Provincial Offences	1990
Report on Administration of Estates of Deceased Persons	1991
Report on Exemplary Damages	1991
1991 Ontario Law Reform Commission Report	1991
Appointing Judges: Philosophy, Politics and Practice	1991
Report on Child Witnesses	1991
Report on Testing for AIDS	1992

Title	Date of Report
Report on Public Inquiries	1992
Summary of Recommendations	1992
Annual Report 1991-92	1992
Report on Drug and Alcohol Testing in the Workplace	1992
Report on the Powers of the Ontario Film Review Board	1992
Study Paper on Litigating the Relationship Between Equity and Equality	1993
Annual Report 1992-93	1993
Report on Family Property Law	1993
Report on the Rights and Responsibilities of Cohabitants Under the *Family Law Act*	1993
Consultation Paper on the Use of Jury Trials in Civil Cases	1994
Annual Report 1993-94	1994
Report on Pensions as Family Property: Valuation and Division	1995
Report on Avoiding Delay and Multiple Proceedings in the Adjudication of Workplace Disputes	1995
Study Paper on Prospects for Civil Justice	1995
Report on the Law of Coroners	1996
Report on Genetic Testing	1996
Study Paper on Psychological Testing and Human Rights in Education and Employment	1996
Report on the Law of Charities	1996
Report on Basic Principles of Land Law	1996
Rethinking Civil Justice: Research Studies for the Civil Justice Review	1996
Study Paper on Legal Aspects of Long Term Disability Insurance	1996
Report on the Use of Jury Trials on Civil Cases	1996
Study Paper on Assisted Suicide, Euthanasia and Foregoing Treatment	1996
Final Report	1996

Copies of the Commission's reports that are still in print may be ordered from Publications Ontario, 50 Grosvenor Street, Toronto, Ontario, Canada M7A 1N8. Telephone (416) 326-5300. Toll free long distance 1-800-668-9938.

APPENDIX B

IMPLEMENTATION OF THE REPORTS OF THE ONTARIO LAW REFORM COMMISSION

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report No. 1 [The Rule Against Perpetuities]	1965	*The Perpetuities Act, 1966*, S.O. 1966, c. 113
Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]	1966	*do.*
Report No. 2 [The Wages Act: Assignment of Wages]	1965	*The Wages Amendment Act, 1968*, S.O. 1968, c. 142
Report No. 3 on Personal Property Security Legislation	1965	*The Personal Property Security Act, 1967*, S.O. 1967, c. 72
Report No. 3A on Personal Property Security Legislation	1966	*do.*
Report on The Evidence Act: Admissibility of Business Records	1966	*The Evidence Amendment Act, 1966*, S.O. 1966, c. 51, s. 1
Report on The Mechanics' Lien Act	1966	*The Mechanics' Lien Act, 1968-69*, S.O. 1968-69, c. 65
Supplementary Report on The Mechanics' Lien Act	1967	*do.*
Report on the Proposed Extension of Guarantor's Liability on Construction Bonds	1966	See *The Mechanics' Lien Amendment Act, 1975*, S.O. 1975, c. 43

Title	Date of Report	Original Legislation Concerning Commission Proposals
		The Ministry of Transportation and Communications Creditors Payment Act, 1975, S.O. 1975, c. 44 *The Public Works Creditors Payment Repeal Act, 1975*, S.O. 1975, c. 45
Report on The Execution Act: Exemption of Goods from Seizure	1966	*The Execution Amendment Act, 1967,* S.O. 1967, c. 26
Report on the Law of Condominium	1967	*The Condominium Act, 1967*, S.O. 1967, c. 13
Report on the Basis for Compensation on Expropriation	1967	*The Expropriations Act, 1968-69*, S.O. 1968-69, c. 36
Report on the Limitation Period for Actions under The Sandwich, Windsor and Amherstburg Railway Act, 1930	1968	*The Sandwich Windsor and Amherstburg Railway Amendment Act, 1968*, S.O. 1968, c. 120
Report on Certain Aspects of the Proposed Divorce Legislation Contained in Bill C-187	1968	*Divorce Act*, S.C. 1967-68, c. 24, s. 26
Report on the Proposed Adoption in Ontario of The Uniform Wills Act	1968	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40 See *The Registry Amendment Act, 1978*, S.O. 1978, c. 8, s. 1

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on The Protection of Privacy in Ontario	1968	See *The Consumer Reporting Act, 1973*, S.O. 1973, c. 97
Report on Trade Sale of New Houses	1968	See *The Ontario New Home Warranties Plan Act, 1976*, S.O. 1976, c. 52
Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies	1968	*The Landlord and Tenant Amendment Act, 1968-69*, S.O. 1968-69, c. 58
Report on Limitation of Actions	1969	See *The Highway Traffic Amendment Act (No. 2), 1975*, S.O. 1975, c. 37 *The Fatal Accidents Amendment Act, 1975*, S.O. 1975, c. 38 *The Trustee Amendment Act, 1975*, S.O. 1975, c. 39
Report on the Age of Majority and Related Matters	1969	*The Age of Majority and Accountability Act, 1971*, S.O. 1971, c. 98
Report on the Status of Adopted Children	1969	*The Child Welfare Amendment Act, 1970*, S.O. 1970, c. 96, s. 23
Report on Family Law, Part I: Torts	1969	*The Family Law Reform Act, 1978*, S.O. 1978, c. 2 (partial implementation)
Report on Section 20 of The Mortgages Act	1970	*The Mortgages Amendment Act, 1970*, S.O. 1970, c. 54, s. 1

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on Family Law, Part II: Marriage	1970	*The Civil Rights Statute Law Amendment Act, 1971*, S.O. 1971, c. 50, s. 55 (partial implementation) *The Marriage Act, 1977*, S.O. 1977, c. 42
Report on Actions Against Representatives of Deceased Persons	1970	*The Trustee Amendment Act, 1971*, S.O. 1971, c. 32, s. 2
Report on the Coroner System in Ontario	1971	*The Coroners Act, 1972*, S.O. 1972, c. 98
Report on Sunday Observance Legislation	1971	*The Retail Business Holidays Act, 1975*, S.O. 1975 (2nd Session), c. 9 *Courts of Justice Act, 1984*, S.O. 1984, c. 11, s. 134
Report on Land Registration	1971	See *The Corporations Tax Amendment Act (No. 2), 1979*, S.O. 1979, c. 89 *Land Registration Reform Act, 1984*, S.O. 1984, c. 32
Report on The Change of Name Act	1971	*The Change of Name Amendment Act, 1972*, S.O. 1972, c. 44 *Change of Name Act, 1986*, S.O. 1986, c. 7

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on Development Control	1971	*The Planning Amendment Act, 1973*, S.O. 1973, c. 168, s. 10
Report on Powers of Attorney	1972	*The Powers of Attorney Act, 1979,* S.O. 1979, c. 107 *Powers of Attorney Amendment Act, 1983*, S.O. 1983, c. 74 *Mental Health Amendment Act, 1983*, S.O. 1983, c. 75
Report on Occupiers' Liability	1972	*The Occupiers' Liability Act, 1980*, S.O. 1980, c. 14
Report on Review of Part IV of The Landlord and Tenant Act	1972	*The Landlord and Tenant Amendment Act, 1972*, S.O. 1972, c. 123
Report on the Non-Possessory Repairman's Lien	1972	*Repair and Storage Liens Act, 1989*, S.O. 1989, c. 17 (partial implementation)
Report on Administration of Ontario Courts, Part I	1973	See *The Administration of Courts Project Act, 1975*, S.O. 1975, c. 31

Title	Date of Report	Original Legislation Concerning Commission Proposals
		The Judicature Amendment Act (No. 2), 1977, S.O. 1977, c. 51, s. 9 *Courts of Justice Act, 1984*, S.O. 1984, c. 11, ss. 19 and 25
Report on Administration of Ontario Courts, Part II	1973	*Courts of Justice Act, 1984*, S.O. 1984, c. 11, s. 162 See *The Administration of Courts Project Act, 1975*, S.O. 1975, c. 31
Report on Family Law, Part III: Children	1973	*The Child Welfare Amendment Act, 1975*, S.O. 1975, c. 1 (partial implementation) *The Succession Law Reform Act, 1977*, S.O. 1977, c. 40 (partial implementation) *The Children's Law Reform Act, 1977*, S.O. 1977, c. 41 (partial implementation) See *Children's Law Reform Amendment Act, 1982*, S.O. 1982, c. 20
Report on The Solicitors Act	1973	*Courts of Justice Act, 1984*, S.O. 1984, c. 11, s. 214(6)

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on Administration of Ontario Courts, Part III	1973	*The Judicature Amendment Act, 1975*, S.O. 1975, c. 30 (partial implementation) See *The Administration of Courts Project Act, 1975*, S.O. 1975, c. 31 *The Small Claims Courts Amendment Act, 1977*, S.O. 1977, c. 52 (partial implementation)
Report on Family Law, Part IV: Family Property Law	1974	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40 (partial implementation) *The Family Law Reform Act, 1978*, S.O. 1978, c. 2 (partial implementation) *Family Law Act, 1986*, S.O. 1986, c. 4 (partial implementation) See *The Land Titles Amendment Act, 1978*, S.O. 1978, c. 7 *The Registry Amendment Act, 1978*, S.O. 1978, c. 8
Report on Family Law, Part V: Family Courts	1974	See *The Unified Family Court Act, 1976*, S.O. 1976, c. 85

Title	Date of Report	Original Legislation Concerning Commission Proposals
		The Children's Probation Act, 1978, S.O. 1978, c. 41 (partial implementation)
Report on the International Convention Providing a Uniform Law on the Form of the International Will	1974	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40, s. 42
Report on Family Law, Part VI: Support Obligations	1975	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40 (partial implementation) *The Family Law Reform Act, 1978,* S.O. 1978, c. 2
Report on Mortmain, Charitable Uses and Religious Institutions	1976	*The Religious Organizations' Lands Act, 1979*, S.O. 1979, c. 45 *The Anglican Church of Canada Act, 1979*, S.O. 1979, c. 46 *The Registry Amendment Act, 1979*, S.O. 1979, c. 94, s. 17 *Charities Accounting Amendment Act, 1982*, S.O. 1982, c. 11 *Mortmain and Charitable Uses Repeal Act, 1982*, S.O. 1982, c. 12, s. 1(1)
Report on Landlord and Tenant Law	1976	*The Residential Tenancies Act, 1979*, S.O. 1979, c. 78 (partial implementation)

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on Changes of Name	1976	*The Change of Name Amendment Act, 1978*, S.O. 1978, c. 28 *The Vital Statistics Amendment Act, 1978*, S.O. 1978, c. 81, s. 1 (partial implementation) *Change of Name Act, 1986*, S.O. 1986, c. 7 (partial implementation) *Vital Statistics Amendment Act, 1986*, S.O. 1986, c. 9 (partial implementation)
Report on the Impact of Divorce on Existing Wills	1977	*The Succession Law Reform Act, 1977*, S.O. 1977, c. 40, s. 17(2)
Report on the Enforcement of Judgment Debts and Related Matters, Part II	1981	*Wages Amendment Act, 1983*, S.O. 1983, c. 68 (partial implementation) *Proceedings Against the Crown Amendment Act, 1983*, S.O. 1983, c. 88 *Courts of Justice Act, 1984*, S.O. 1984, c. 11, s. 177 (partial implementation) Rules of Civil Procedure, O. Reg. 560/84, r. 60 (partial implementation)
Report on the Enforcement of Judgment Debts and Related Matters, Part III	1981	Rules of Civil Procedure, O. Reg. 560/84, r. 60.07(16) and (17)

Title	Date of Report	Original Legislation Concerning Commission Proposals
Report on Class Actions	1982	*Class Proceedings Act, 1992*, S.O. 1992, c. 6 (partial implementation)
Report on the Enforcement of Judgment Debts and Related Matters, Part V	1983	*Creditors' Relief Amendment Act, 1985*, S.O. 1985, c. 1 (partial implementation)
Report on Political Activity, Public Comment and Disclosure by Crown Employees	1986	*Public Service and Labour Relations Statute Law Amendment Act, 1993*, S.O. 1993, c. 38
Report on Compensation for Personal Injuries and Death	1987	*Courts of Justice Amendment Act, 1989*, S.O. 1989, c. 67 (partial implementation)
Report on Administration of Estates of Deceased Persons	1991	Rules of Civil Procedure, rr. 74 and 75, as en. by O. Reg. 484/94 (partial implementation)

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APPENDIX C

JUDICIAL AND ACADEMIC REFERENCES TO PUBLICATIONS OF THE ONTARIO LAW REFORM COMMISSION*

Report No. 1 [The Rule Against Perpetuities] (1965)

Edward Estate v. McBay, [1996] O.J. No. 3237
Sutherland Estate v. Dyer (1991), 4 O.R. (3d) 168, 82 D.L.R. (4th) 432
Re Tilbury West Public School Board and Hastie, [1966] 2 O.R. 20

Report No. 1A: The Perpetuities Act, 1965 [Supplementary Report on the Rule Against Perpetuities]

Sutherland Estate v. Dyer (1991), 4 O.R. (3d) 168, 82 D.L.R. (4th) 432

Report No. 3 on Personal Property Security Legislation (1965)

Harvey Hubbell Canada Inc. v. Thornhurst Corp. (1989), 69 O.R. (2d) 53
Bank of Nova Scotia v. McIvor (1986), 57 O.R. (2d) 501

Report on The Mechanics' Lien Act (1966)

National Defence Credit Union Ltd. v. Labine, [1987] O.J. No. 1366
George Wimpey Canada Ltd. v. Peelton Hills Ltd. (1982), 35 O.R. (2d) 787, 132 D.L.R. (3d) 732
Otis Elevator Co. Ltd. v. Commonwealth Holiday Inns of Canada Ltd. (1975), 8 O.R. (2d) 297, 57 D.L.R. (3d) 681

Supplementary Report on The Mechanics' Lien Act (1967)

George Wimpey Canada Ltd. v. Peelton Hills Ltd. (1982), 35 O.R. (2d) 787, 132 D.L.R. (3d) 732

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* This is a non-exhaustive list of articles and cases in which the Commission's publications have been reviewed or cited.

Report on The Law of Condominium (1967)

McKay v. Waterloo North Condominium Corp. No. 23 (1992), 11 O.R. (3d) 341

Re 511666 Ontario Ltd. and Confederation Life Insurance Co. (1985), 50 O.R. (2d) 181

Frontenac Condominium Corp. No. 1 v. Joe Macciocchi & Sons Ltd. (1974), 3 O.R. (2d) 331, 45 D.L.R. (3d) 347

Re Lambert Island Ltd. and Attorney-General of Ontario, [1972] 2 O.R. 659, 26 D.L.R. (3d) 391

Report on the Basis for Compensation on Expropriation (1967)

Toronto Area Transit Operating Authority v. Dell Holdings Ltd., [1997] S.C.J. No. 6

Nova Scotia v. L.E. Powell Properties Ltd. (1996), 452 A.P.R. 367

Nova Scotia (Attorney General) v. L.E. Powell Properties Ltd. (1995), 416 A.P.R. 93

Neill v. British Columbia, [1993] B.C.J. No. 1162

Re City of Windsor and Larsen (1980), 29 O.R. (2d) 669, 114 D.L.R. (3d) 477

Re Laidlaw and Municipality of Metropolitan Toronto, [1978] 2 S.C.R. 736, 87 D.L.R. (3d) 161

Report on the Proposed Adoption in Ontario of The Uniform Wills Act (1968)

Re Nicholls (1987), 57 O.R. (2d) 763, 34 D.L.R. (4th) 321

Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies (1968)

Reference re Amendments to the Residential Tenancies Act (N.S.), [1996] 1 S.C.R. 186, 193 N.R. 1

Re Boyd and Earl & Jennie Lohn Ltd. (1984), 47 O.R. (2d) 111, 11 D.L.R. (4th) 265

Reference re Residential Tenancies Act (1980), 26 O.R. (2d) 609, 105 D.L.R. (3d) 193

Gaul v. King (1979), 33 N.S.R. (2d) 60

McEvoy, Case Comment on *Clark v. Naqvi* (1989), 99 N.B.R. (2d) 271, 250 A.P.R. 271, (1990), 104 N.B.R. (2d), 261 A.P.R. 237

Darroch v. Toronto (Metropolitan) Police Services Board, [1996] O.J. No. 4379

Vance v. Peglar (1996), 138 D.L.R. (4th) 711, 78 B.C.A.C. 299

Nahum v. Toronto Dominion Bank, [1996] O.J. No. 2855

Boertin v. Carter (1995), 13 M.V.R. (3d) 29

Simms v. Conestoga College of Applied Arts and Technology, [1995] O.J. No. 902

Parekh v. Guelph Air Services '67 Ltd. (1994), 20 O.R. (3d) 1

Modern Livestock Ltd. v. Kansa General Insurance Co., [1993] A.J. No. 575

Guignard v. Paulin (1992), 124 N.B.R. (2d) 181 (Q.B.)

Swiderski v. Broy Engineering Ltd. (1992), 40 M.V.R. (2d) 228 *Grundy v. Humber College of Applied Arts and Technology*, [1992] O.J. No. 2577

Murphy v. Welsh (1991), 3 O.R. (3d) 182, 81 D.L.R. (4th) 475

Ontario Teachers' Pension Plan Board v. York University (1990), 74 O.R. (2d) 714, 72 D.L.R. (4th) 253

Lee v. Ontario (Minister of Transportation & Communications) (1990), 72 O.R. (2d) 343

Comite d'environnement de La Baie Inc. v. Societe d'electrolyse et de chimie Alcan Ltee. (1990), 29 Q.A.C. 251

Hart v. Hart (1990), 27 R.F.L. (3d) 419

West End Construction Ltd. v. Ontario Human Rights Commission (1989), 62 D.L.R. (4th) 329, 70 O.R. (2d) 133

Alberta v. Buys (1989), 59 D.L.R. (4th) 677

Cementation Co. (Canada) v. American Home Assurance Co. (1989), 37 B.C.L.R. (2d) 172

Colangelo v. Mississauga (City) (1988), 66 O.R. (2d) 29

Radelja v. Canadian General Insurance Co. (1988), 29 C.C.L.I. 168

Bank of Nova Scotia v. Dunphy Leasing Enterprises Ltd. (1987), 38 D.L.R. (4th) 575

Streng v. Township of Winchester (1986), 56 O.R. (2d) 649, 31 D.L.R. (4th) 734

Re West End Construction Ltd. and Ministry of Labour for Ontario (1986), 57 O.R. (2d) 391, 33 D.L.R. (4th) 285

C.C. Fraser Building Supplies Ltd. v. Ontario Hydro (1986), 55 O.R. (2d) 32, 28 D.L.R. (4th) 557

Re Walker and Bostwick (1986), 34 D.L.R. (4th) 310

Public Trustee v. Mortimer (1985), 49 O.R. (2d) 741

Morley v. Wiggins (1985), 49 O.R. (2d) 136, 7 O.A.C. 324

Moffett v. Farnsworth (1984), 47 O.R. (2d) 620, 12 D.L.R. (4th) 101

Ranjoy Sales and Leasing Ltd. v. Deloitte, Haskins & Sells (1984), 31 Man. R. (2d) 87, [1985] 2 W.W.R. 534

Schenck v. The Queen in right of Ontario; Rokeby v. The Queen in right of Ontario (1983), 40 O.R. (2d) 410, 142 D.L.R. (3d) 261

Sydney Steel Corporation v. Al E. & C. Limited and Dresser Canada Inc. (1983), 58 N.S.R. (2d) 369, 123 A.P.R. 369

Central Trust Company v. Rafuse and Cordon (1983), 57 N.S.R. (2d) 125, 147 D.L.R. (3d) 360

Morgan v. Superintendent of Winnipeg Remand Centre, [1983] 3 W.W.R. 542

Duffin v. Mehagan; Lipton v. Mehagan (1982), 35 O.R. (2d) 563

Re Palermo Bakery Ltd. and Dominion of Canada General Insurance Co. (1976), 12 O.R. (2d) 50

Attorney-General for Ontario v. Watkins (1975), 8 O.R. (2d) 513, 58 D.L.R. (3d) 260

Report on the Age of Majority and Related Matters (1969)

Eccles v. Van Duin (1978), 19 O.R. (2d) 37, 84 D.L.R. (3d) 406

Clark v. Clark, [1971] 1 O.R. 674, 16 D.L.R. (3d) 376

Wood v. Wood, [1971] 1 O.R. 731, 16 D.L.R. (3d) 497

Report on Family Law, Part I: Torts (1969)

Szarfer v. Chodos (1988), 66 O.R. (2d) 350 (C.A.), 54 D.L.R. (4th) 383

Frame v. Smith, [1987] 2 S.C.R. 99, 42 D.L.R. (4th) 81

Szarfer v. Chodos (1986), 54 O.R. (2d) 663, 27 D.L.R. (4th) 338

Schrenk v. Schrenk (1982), 36 O.R. (2d) 480

Hartwick v. MacIntyre (1982), 35 O.R. (2d) 119, 131 D.L.R. (3d) 333

Manning v. Howard (1976), 8 O.R. (2d) 728

Canestraro v. Larade, [1972] 3 O.R. 382, (1972), 28 D.L.R. (3d) 290

Report on Family Law, Part II: Marriage (1970)

Al-Smadi (Father and Next Friend of) (1994), 90 Man. R. (2d) 304

S.(A.) v. S.(A.) (1988), 65 O.R. (2d) 720

Report on the Coroner System in Ontario (1971)

Manson, "Standing in Public Interest at Coroner's Inquests in Ontario" (1988), 20 Ottawa L. Rev. 637

Granger, *Canadian Coroner Law* (1984)

Black Action Defence Committee v. Huxter (1992), 11 O.R. (3d) 641

Re Beckon (1992), 9 O.R. (3d) 256

People First of Ontario v. Porter (1991), 5 O.R. (3d) 609, 85 D.L.R. (4th) 174

Kingston Penitentiary (Range Representative on Administrative Segregation) v. Regional Coroner (Eastern Ontario) (1989), 33 O.A.C. 241

Standford v. Harris (1989), 38 Admin. L.R. 141

Report on Sunday Observance Legislation (1971)

RJR-MacDonald Inc. v. Canada (Attorney-General), [1995] 3 S.C.R. 199, 127 D.L.R. (4th) 1

Coles Book Stores Ltd. v. The Queen in Right of Ontario (1991), 60 O.R. (3d) 673, 88 D.L.R. (4th) 312

Re Regional Municipality of Peel and Great Atlantic & Pacific Co. of Canada Ltd. (1990), 73 O.R. (2d) 289, 71 D.L.R. (4th) 293, rev'd (1991), 2 O.R. (3d) 65

R. v. Paul Magder Furs Ltd. (1989), 69 O.R. (2d) 172, 49 C.C.C. (3d) 267

The Queen v. Westfair Foods Ltd. (1989), 80 Sask. R. 33, 65 D.L.R. (4th) 56

Regina v. Rice (1989), 49 C.C.C. (3d) 1, 7 W.C.B. (2d) 120

R. v. Paul Magder Furs Ltd., [1988] O.J. No. 589

Re McFarland (1987), 60 O.R. (2d) 73, 39 D.L.R. (4th) 703

McKinney v. University of Guelph (1987), 63 O.R. (2d) 1, 46 D.L.R. (4th) 193

Edwards Books and Art Ltd. v. The Queen, [1986] 2 S.C.R. 713, 35 D.L.R. (4th) 1

Regina v. Morgentaler (1984), 47 O.R. (2d) 353

Regina v. Videoflicks Ltd. (1984), 48 O.R. (2d) 395, 58 O.R. (2d) 442n

Regina v. Magder (1983), 41 O.R. (2d) 281

R. v. Big M. Drug Mart Ltd., [1983] 4 W.W.R. 54, [1984] 1 W.W.R. 625, 49 A.R. 194

Report on Land Registration (1971)

McCormack, "Torrens and Recording: Land Title Assurance in the Computer Age" (1992), 18 Wm. Mitchell L. Rev. 61

Dominion Stores Ltd. v. United Trust Company, [1977] 2 S.C.R. 915, 71 D.L.R. (3d) 72

Report on The Mortgages Act, Section 16 (1971)

Litowitz v. Standard Life Assurance Co. (Trustee of) (1996), 30 O.R. (3d) 579, 94 O.A.C. 274
Potash v. Royal Trust Company, [1986] 2 S.C.R. 351, 31 D.L.R. (4th) 321
Turner v. Royal Trust Corporation of Canada, [1986] 2 W.W.R. 655
Potash v. Royal Trust Company (1984), 28 Man. R. (2d) 1, 8 D.L.R. (4th) 459

Report on Occupiers' Liability (1972)

Lewis (Guardian ad litem of) v. British Columbia (1995), 16 M.V.R. (3d) 161
Olinski v. Johnson, [1992] O.J. No. 2398
Mortimer v. Cameron (1992), 12 C.P.C. (3d) 284
Waldick v. Malcolm, [1991] 2 S.C.R. 456, 83 D.L.R. (4th) 114
Waldick v. Malcolm (1989), 70 O.R. (2d) 717, 63 D.L.R. (4th) 583
Colangelo v. Mississauga (City) (1988), 66 O.R. (2d), 53 D.L.R. (4th) 283
Waldick v. Malcolm (1987), 61 O.R. (2d) 624, 43 D.L.R. (4th) 693
Bartlett v. Weiche Apartments Ltd. (1975), 7 O.R. (2d) 263, 55 D.L.R. (3d) 44

Report on Consumer Warranties and Guarantees in the Sale of Goods (1972)

Ogilvie (ed.), *Consumer Law* (1984)

Report on Powers of Attorney (1972)

Axler v. Axler, [1993] O.J. No. 1060

Report on Review of Part IV of the Landlord and Tenant Act (1972)

Hickman v. Marrone (1992), 11 O.R. (3d) 730
Re Quann and Pajelle Investments Limited (1975), 7 O.R. (2d) 769
Re Pajelle Investments Ltd. and Booth (No. 2) (1975), 7 O.R. (2d) 229

Report on Administration of Ontario Courts, Part I (1973)

R. v. Davies (1990), 56 C.C.C. (3d) 321, 10 W.C.B. (2d) 52
R. v. O'Donnell, [1988] O.J. No. 2425

Re MacBride and MacBride (1986), 58 O.R. (2d) 230, 35 D.L.R. (4th) 115
Reference re Justices of the Peace Act (1984), 48 O.R. (2d) 609

Report on Administration of Ontario Courts, Part II (1973)

R. v. Luz (1988), 5 O.R. (3d) 52

Report on Family Law, Part III: Children (1973)

R. v. Farbotnik (1987), 81 A.R. 224
Husband v. Husband (1987), 7 R.F.L. (3d) 380*Bagaric v. Juric* (1984), 2 O.A.C. 35
R. v. Enkirch, [1983] 1 W.W.R. 530, 142 D.L.R. (3d) 490
Abbey v. Abbey (1977), 28 R.F.L. 222
Re Helmes (1977), 13 O.R. (2d) 4
Re Reid and Reid (1976), 11 O.R. (2d) 622

Report on Motor Vehicle Accident Compensation (1973)

Gallanter, "Real World Torts: An Antidote to Anecdote" (1996), 55 Md. L. Rev. 1093
Ison, *Policy Choices in Compensation Systems* (1994)
Linden and Klar, "Canadian Tort Law: *Cases, Notes & Materials*" (1994)
Linden, "Faulty No-Fault: A Critique of the Ontario Law Reform Commission Report on Motor Vehicle Accident Compensation" (1975), 13 Osgoode Hall L. J. 449

Hernandez v. Palmer, [1992] O.J. No. 2648

Report on Family Law, Part IV: Family Property Law (1974)

Parkinson, "Who Needs the Uniform Marital Property Act?" , 55 U. Cin. L. Rev. 677
Hovius and Youdan, *The Law of Family Property* (1991)

Duca Community Credit Union Ltd. v. Fulco Automotive Ltd. (1994), 71 O.A.C. 351
Bank of Montreal v. Bray (1993), 45 R.F.L. (3d) 273; 12 O.R. (3d) 545
Lauzon v. Lauzon (1992), 42 R.F.L. (3d) 438
Bosch v. Bosch (1991), 6 O.R. (3d) 168, 84 D.L.R. (4th) 626
Rawluk v. Rawluk, [1990] 1 S.C.R. 70, 65 D.L.R. (4th) 161
Buske v. Buske (1988), 63 O.R. (2d) 749 (Dist. Ct.)

Re McFarland (1987), 60 O.R. (2d) 73
Re Butt (1986), 53 O.R. (2d) 297
Clarke v. Clarke (1986), 173 A.P.R. 387, 72 N.S.R. (2d) 387, rev'd (1990), 73 D.L.R. (4th) 1
Sagar v. Bradley (Marion) Estate (1984), 63 N.S.R. (2d) 386, 10 D.L.R. (4th) 565

Report on Family Law, Part VI: Support Obligations (1975)

Walsh v. Elliot, [1994] B.C.J. No. 292
Grant-Hose v. Grant-Hose (1991), 32 R.F.L. (3d) 26
Buske v. Buske (1988), 63 O.R. (2d) 749
Rehn v. Rehn (1988), 13 R.F.L. (3d) 440
Harrington v. Harrington (1981), 33 O.R. (2d) 150, 123 D.L.R. (3d) 689

Report on Mortmain, Charitable Uses and Religious Institutions (1976)

Oosterhoff, Book Review of Ontario Law Reform Commission Report on Mortmain, Charitable Uses and Religious Institutions (1977), 27 U. Toronto L. J. 257

Palmer v. Marmon (1978), 32 O.R. (2d) 417

Report on Landlord and Tenant Law (1976)

General Leaseholds Ltd. v. 661255 Ontario Inc. (1990), 75 O.R. (2d) 224
Onuoha v. Credit Mountain Land Co., [1990] O.J. No. 769
Oromocto Motor Inn Ltd. v. Wilson (1985), 169 A.P.R. 173, 66 N.B.R. (2d) 173
Curtis Investments Ltd. v. Anderson (1981), 24 Man. R. (2d) 220
Reference re Residential Tenancies Act (1980), 26 O.R. (2d) 609, 105 D.L.R. (3d) 193
Beyer v. Absamco Developments Ltd. (1977), 12 O.R. (2d) 768

Report on the Law of Evidence (1976)

Wright, Graham, 24 Fed. Prac. & Proc. Evid., s. 5474 (RR 503), 1986 West Publishing Co.
R. v. R.J.S., [1995] 1 S.C.R. 451
R. v. K.G.B., [1993] 1 S.C.R. 740
R. v. Gruenke, [1991] 3 S.C.R. 263, 67 C.C.C. (3d) 289
Re Church of Scientology and the Queen (No. 6) (1987), 31 C.C.C. (3d) 449, 18 O.A.C. 321
Re Del Core and Ontario College of Pharmacists (1985), 51 O.R. (2d) 1, 19 D.L.R. (4th) 68
Tecoglas, Inc. v. Domglas, Inc. (1985), 51 O.R. (2d) 196, 19 D.L.R. (4th) 738
R. v. Smith (1985), 8 O.A.C. 241
Q. v. Minto Management Ltd. (1984), 46 O.R. (2d) 756
R. v. Gratt (1983), 45 N.R. 451*Regina v. Samson, Brown, Scott, Wright, Wright, and Woodcock (No. 7)* (1982), 37 O.R. (2d) 237
Regina v. Stewart (1981), 33 O.R. (2d) 1, 125 D.L.R. (3d) 576
R. v. Marchand (1980), 39 N.S.R. (2d) 700
Regina v. McMullen (1979), 25 O.R. (2d) 301, 100 D.L.R. (3d) 671
Algoma Central Railway v. Fraser (Herb) and Associates Ltd. (1988), 31 O.A.C. 287
Tiedmann v. Basiuk (1977), 5 A.R. 435

Report on Changes of Name (1976)

Re Forrest and Forrest (1986), 57 O.R. (2d) 124, 32 D.L.R. (4th) 473

Report on the Impact of Divorce on Existing Wills (1977)

Page Estate v. Sachs (1993), 12 O.R. (3d) 371
Page Estate v. Sachs (1990), 72 O.R. (2d) 409

Tenth Annual Report 1976 (1977)

Naken v. General Motors of Canada Ltd. (1978), 21 O.R. (2d) 780, 92 D.L.R. (3d) 160

Report on Sale of Goods (1979)

Farnsworth, "The Eason-Weinmann Colloquium on International and Comparative Law: Duties of Good Faith under the Unidroit

Principles, Relevant International Conventions, and National Laws" (Spring 1995), 3 Tul. J. Int'l. & Comp. L. 47

King, "Globalization Thinking: Commercial and Consumer Law Illustrations", (Spring 1995), 39 St. Louis L.J. 865

Ziegel, "Reflections on the Ontario Proposals", in Ziegel (ed.), *Ninth Annual Workshop on Commercial and Consumer Law* (1981) 1

Fridman, "The Ontario Law Reform Commission on Sale of Goods: *Quo Vadis*?", in Ziegel (ed.), *Ninth Annual Workshop on Commercial and Consumer Law* (1981) 53

Sutton, "Ontario Law Reform Commission's Report on the Sale of Goods", in Ziegel (ed.), *Ninth Annual Workshop on Commercial and Consumer Law* (1981) 28

Cuming, "The Ontario Law Reform Commission's Report on Sale of Goods_Background Considerations", in Ziegel (ed.), *Ninth Annual Workshop on Commercial and Consumer Law* (1981) 42

Romero, "Buyer's Remedies and the O.L.R.C. Proposals", in Ziegel (ed.), *Ninth Annual Workshop on Commercial and Consumer Law* (1981) 169

Rafferty, "The Buyer's Remedy of Rejection and the O.L.R.C. Proposals", in Ziegel (ed.), *Ninth Annual Workshop on Commercial and Consumer Law* (1981) 199

Ramsay, Book Review of Ontario Law Reform Commission Report on Sale of Goods (1981), 58 Can. B. Rev. 780

Polaris Marine Services Ltd. v. Canadian Imperial Bank of Commerce (1996), 445 A.P.R. 46

Scott Steel Ltd. v. Alarisa (The) (1996) , 2 F.C. 883, 111 F.T.R. 81

Barclays Business Credit Inc. v. Fletcher Challenge Canada Ltd. (1993), 13 O.R. (3d) 118

Keneric Tractor Sales Limited v. Langille (1985), 155 A.P.R. 404, 67 N.S.R. (2d) 404

Champlain Sept-Iles Express Inc. v. Metal Koting Continuous Color Coat Ltd. (1982), 38 O.R. (2d) 182

Report on Products Liability (1979)

Linden, Book Review of Ontario Law Reform Commission Report on Products Liability (1980), 5 Can. Bus. L. J. 92

Privest Properties Ltd. v. Foundation Co. of Canada (1995), 128 D.L.R. (4th) 577

McEvoy v. Ford Motor Co. (1989), 41 B.C.L.R. (2d) 224

Report on the Enforcement of Judgment Debts and Related Matters, Part I (1981)

Christensen (Trustee of) v. Christensen (1996), 184 A.R. 194, 122 W.A.C. 194
Penney v. Canadian Imperial Bank of Commerce (1996), 453 A.P.R. 355
Mitchell v. Peguis Indian Band (1990), 71 D.L.R. (4th) 193, 5 W.W.R. 97
Dimovski v. Ontario (Support and Custody Enforcement, Director) (1988), 17 R.F.L. (3d) 445
Lennox Industries (Canada) Ltd. v. The Queen, [1987] 3 F.C. 338, 34 D.L.R. (4th) 297

Report on the Enforcement of Judgment Debts and Related Matters, Part II (1981)

Planet Earth Productions Inc. v. Rowlands (1990), 73 O.R. (2d) 505, 69 D.L.R. (4th) 715
Ontario (Support and Custody Enforcement, Director) v. Jones, [1988] O.J. 2461
Westcoast Commodities Inc. v. Chen (1986), 55 O.R. (2d) 264
Allen v. Morrison (1987), 62 O.R. (2d) 790, 11 R.F.L. (3d) 225
Olah v. Royal Bank of Canada (1984), 27 Sask. R. 63
Martin v. Martin (1981), 33 O.R. (2d) 164, 123 D.L.R. (3d) 718

Report on the Enforcement of Judgment Debts and Related Matters, Part III (1981)

Zingone v. Zingone (1986), 53 O.R. (2d) 411, 25 D.L.R. (4th) 416

Report on Class Actions (1982)

Du Val, Book Review of Ontario Law Reform Commission Report on Class Actions (1983), 3 Windsor Y.B. Access Just. 411
Cromwell, "An Examination of the Ontario Law Reform Commission Report on Class Actions" (1983), 15 Ottawa L. Rev. 587

Anderson v. Wilson, [1997] O.J. No. 548
Chippewas of Sarnia Band v. Canada (Attorney General) (1996), 29 O.R. (3d) 549, 137 D.L.R. (4th) 239
Peppiatt v. Royal Bank of Canada (1996), 27 O.R. (3d) 462
Windisman v. Toronto College Park Ltd., [1996] O.J. No. 2897
Abdool v. Anaheim Management Ltd. (1995), 21 O.R. (3d) 453

Elliot v. Canadian Broadcasting Corp. (1995), 25 O.R. (3d) 302, 125 D.L.R. (4th) 534
Garland v. Consumers' Gas Co. (1995), 22 O.R. (3d) 767
Elliott v. Canadian Broadcasting Corp., [1995] O.J. No. 1710
Mahar v. Rogers Cablesystems Ltd. (1995), 25 O.R. (3d) 690
Nantasis v. Telectronics Proprietary (Canada) Ltd. (1995), 25 O.R. (3d) 331, 127 D.L.R. (4th) 552
Smith v. Canadian Tire Acceptance Limited (1995), 22 O.R. (3d) 433
Sutherland v. Canadian Red Cross Society, [1994] O.J. No. 315
Re Buday and Locator of Missing Heirs Inc. (1993), 16 O.R. (3d) 257
Bendall v. McGhaw Medical Corp. (1993), 14 O.R. (3d) 734
Rieberger v. J.C. Olsen Ltd., [1992] B.C.J. No. 790
Comite d'Environnement de La Baie Inc. c. Societe d'Electrolyse et de Chimie Alcan Ltee. (1990), 29 Q.A.C. 251
Kennett v. Health Sciences Centre (1990), 66 Man. R. (2d) 298
Renegade Capital Corp. v. Hees International Bancorp Inc. (1990), 73 O.R. (2d) 311

Report on the Enforcement of Judgment Debts and Related Matters, Part IV (1983)

Optical Recording Laboratories Inc. v. Digital Recording Corp. (1990), 1 O.R. (3d) 131, 75 D.L.R. (4th) 747

Report on the Enforcement of Judgment Debts and Related Matters, Part V (1983)

Allen v. Morrison (1987), 62 O.R. (2d) 790, 11 R.F.L. (3d) 225

Report on Powers of Entry (1983)

Re Belgoma Transportation Ltd. and Director of Employment Standards (1985), 51 O.R. (2d) 509, 10 O.A.C. 11

Report on the Law of Trusts (1984)

Lee, Book Review of Ontario Law Reform Commission Report on the Law of Trusts (1986), 6 Oxford J. of Legal Stud. 150
Scane, "The Ontario Law Reform Commission's Draft Trustee Act: its Implications for Investment for Successive Beneficiaries" (1985), 7 E. & T.Q. 157
Goodman, "Commentary on the Ontario Law Reform Commission Report on the Law of Trusts" (1986), 8 E. & T.Q. 1

Smith, Book Review of Ontario Law Reform Commission Report on the Law of Trusts (1985), 63 Can. B. Rev. 847

Wagner v. Van Cleeff (1989), 70 O.R. (2d) 641, rev'd (1991), 5 O.R. (3d) 477

Women's Christian Ass'n of Lindon v. McCormick Estate (1989), 34 E.T.R. 216

Re Zeidler and Campbell (1988), 53 D.L.R. (4th) 350, 1 W.W.R. 490

Report on Human Artificial Reproduction and Related Matters (1985)

Coleman, "Playing God or Playing Scientist: A Constitutional Analysis of State Laws Banning Embryological Procedures" (Spring 1996), 27 Pac. L.J. 1331

Pitrolo, "The Birds, The Bees, And The Deep Freeze: Is there International Consensus in the Debate over Assisted Reproductive Technologies?" (Fall 1996), 19 Hous. J. Int'l. L. 147

Healy, "Statutory Prohibitions and the Regulation of New Reproductive Technologies under Federal Law in Canada" (August 1995), 40 McGill L.J. 905

"Women's Annotated Legal Bibliography" (1996) 3 Cardozo Women's L.J. 135

Shanner, "The Right to Procreate: When Rights Claims Have Gone Wrong" (August 1995), 40 McGill L.J. 823

Harrison, Book Review of Ontario Law Reform Commission Report on Human Artificial Reproduction and Related Matters (1986), 1 C.J.W.L. 561

Andrews, Book Review of Ontario Law Reform Commission Report on Human Artificial Reproduction and Related Matters (1986), 6 Windsor Y.B. Access Just. 354

Coffey, "Of Father Born: a Lesbian Feminist Critique of the OLRC Recommendations on Artificial Insemination" (1986), 1 C.J.W.L. 424

In the Matter of Estate of the Late K and In the Matter of the Administration and Probate Act 1935: Ex parte The Public Trustee (Supreme Court of Tasmania, February 26, 1996), No. M25/1996, Judgment No. A16/1996 ATAS [QL]

Report on Political Activity, Public Comment and Disclosure by Crown Employees (1986)

Re Jones and Attorney-General for Ontario (1988), 65 O.R. (2d) 737, 53 D.L.R. (4th) 273

Re Ontario Public Service Employees Union and Attorney-General of Ontario (1988), 65 O.R. (2d) 689, 52 D.L.R. (4th) 701

Re Treasury Board (Employment & Immigration) and Quigley (1987), 31 L.A.C. (3d) 156

Lavigne v. Robern (1986), 56 O.R. (2d) 385, 30 D.L.R. (4th) 756

Report on Amendment of the Law of Contract (1987)

Farnsworth, "The Eason-Weinmann Colloquium on International and Comparative Law: Duties of Good Faith under the Unidroit Principles, Relevant International Conventions, and National Laws" (Spring 1995), 3 Tul. J. Int'l. & Comp. L. 47

Manwaring, "Unconscionability: Contested Values, Competing Theories and Choice of Rule in Contract Law" (1993), 25 Ottawa L. Rev. 235

Manwaring, "O.L.R.C.: Report on Amendment of the Law of Contract" (1990), 22 Ottawa L. Rev. 245

Ziegel, "The OLRC's Law of Contract Amendment Report: A Brief Introduction" (1988/89), 14 Can. Bus. L.J. 1

Jukier, "Flexibility and Certainty as Competing Contract Values: a Civil Lawyer's Reaction to the Ontario Law Reform Commission's Recommendations on Amendments to the Law of Contract" (1988/89), 14 Can. Bus. L.J. 13

Vaver, "Unconscionability: Panacea, Analgesic or Loose Can(n)on? A Critique of Certain Recommendations in the Ontario Law Reform Commission's Report on Amendment of the Law of Contract" (1988/89), 14 Can. Bus. L.J. 40

Trakman, "Porridge or Scrambled Eggs? Comments on, *Inter Alia*, Contracts That Infringe Public Policy in the OLRC Report on Amendment of the Law of Contract" (1988/89), 14 Can. Bus. L.J. 75

Canadian Imperial Bank of Commerce v. Ohlson (1996), 180 A.R. 248

Redwood Music Ltd. v. Bourne Estate, [1995] O.J. No. 2830

Sivasubramaniam v. Canada (Minister of National Revenue–M.N.R.), [1995] T.C.J. No. 1549

Dudka v. J. Milestone (1994), 131 N.S.R. (2d) 81

London Drugs Ltd. v. Kuehne & Nagel International Ltd., [1993] 1 W.W.R. 1

Love's Realty & Financial Services Ltd. v. Coronet Trust (1989), 57 D.L.R. (4th) 606, 3 W.W.R. 623

Report on the Law of Mortgages (1987)

Siebrasse and Walsh, "Symposium Article: The Influence of the Ulsia on the Proposed New Brunswick Land Security Act" (Spring 1996), 20 Nova L. Rev. 1133

Royal Trust Corp. of Canada v. Gupta, [1997] O.J. No. 347
Collingwood Investments Ltd. v. Bank of America Canada Mortgage Corp. (1988), 50 D.L.R. (4th) 17, 58 Alta. L.R. (2d) 1

Report on Compensation for Personal Injuries and Death (1987)

Boertien v. Carter (1995), 420 A.P.R. 91
Koukounakis v. Stainrod (1995), 23 O.R. (3d) 299, 81 O.A.C. 36
Cunningham v. Wheeler, [1994] 1 S.C.R. 359
Reading & Bates Construction Co. v. Baker Energy Resources Co., Baker Marine Co. and Gaz Inter-Cite Quebec Inc. (1994), 175 N.R. 225
Shanks v. McNee, [1994] 1 S.C.R. 359
Tait v. Roden (1994), 20 O.R. (3d) 20
Wenden v. Trikha (1991), 8 C.C.L.T. (2d) 138
Ratych v. Bloomer, [1990] 1 S.C.R. 940, 69 D.L.R. (4th) 25
Perduk v. Hyslop, [1989] O.J. No. 1946
Giannone v. Weinberg (1989), 33 O.A.C. 11

Report on Timesharing (1988)

Ziff, *Principles of Property Law* (1993)

Report on Contribution Among Wrongdoers and Contributory Negligence (1988)

Thompson v. Australian Capital Television Pry Ltd. & Ors (1996), 71 Aust. L.J. Reports 131 (H.C.)
Bow Valley Husky (Bermuda) Ltd. v. Saint John Shipbuilding Ltd. (1995), 126 D.L.R. (4th) 1, 405 A.P.R. 92
McKay v. Sky-North Ltd., [1992] O.J. No. 4
Coopers & Lybrand Ltd. v. Jennings, [1991] B.C.J. No. 249

Study Paper on Wrongful Interference with Goods (1989)

Advanced Forestry Technology Inc. v. Knox, [1991] O.J. No. 2431

Report on the Law of Standing (1989)

Friedlander, "Costs and the Public Interest Litigant" (1995), 40 McGill L.J. 55
Cromwell, Book Review of Ontario Law Reform Commission Report on the Law of Standing (1989), 9 Windsor Y.B. Access Just. 379

Reclamation Systems Inc. v. The Honourable Bob Rae et al. (1996), 27 O.R. (3d) 419
Right to Life Association (NSW) Inc. v. Secretary, Department of Human Services & Health (1995), 128 A.L.R. 238
Hy and Zel's Inc. v. Ontario; Paul Magder Furs Ltd. v. Ontario, [1993] 3 J.C.R. 113
Reese v. Alberta, [1993] 1 W.W.R. 450
Adler v. Ontario (1992), 8 O.R. (3d) 200
Corp. of Canadian Civil Liberties Ass'n v. Canada (Attorney General) (1990), 74 O.R. (2d) 609, 72 D.L.R. (4th) 742
Canadian Abortion Rights Action League Inc. (C.A.R.A.L.) v. Attorney-General of Nova Scotia (1990), 96 N.S.R. (2d) 284, 69 D.L.R. (4th) 241
Kennett v. Health Sciences Centre (1990), 66 Man. R. (2d) 298
United Parcel Service Canada Ltd. v. Ontario (Highway Transport Board) (1990), 36 O.A.C. 249, 41 Admin. L.R. 97

Report on Covenants Affecting Freehold Land (1989)

Ziff, *Principles of Property Law* (1993)
Ziff, Review of Ontario Law Reform Commission Report on Covenants Affecting Freehold Land (1990), 28 Alta L. Rev. 698.

Pacific International Equities Corp. v. Royal Trust Co., [1994] O.J. No. 2159
Toronto Dominion Bank v. Dufferin-Caledon Investments Ltd., [1992] O.J. No. 683
Avlor Investments Ltd. v. J.K. Children's Wear Inc. (1991), 6 O.R. (3d) 225, 85 D.L.R. (4th) 239
Victoria University v. Heritage Properties Ltd. (1991), 4 O.R. (3d) 655

Report on The Liability of the Crown (1989)

CSL Group Inc. v. Canada, [1996] F.C.J. No. 1618
Duggan v. Newfoundland (1993), 107 Nfld. & P.E.I. R. 33
Swanson v. The Queen in right of Canada (1991), 80 D.L.R. (4th) 741, 124 N.R. 218
Mitchell v. Peguis Indian Band (1990), 71 D.L.R. (4th) 193, 5 W.W.R. 97

Report on Damages for Environmental Harm (1990)

Hodgkinson, "Compensation for Wartime Environmental Damage: Challenges to International Law After the Gulf War" (1995), 35 Va. J. Int'l. L. 405

Brunnée, Book Review of Ontario Law Reform Commission Report on Damages for Environmental Harm (1991), 70 Can. B. Rev. 403

Public Review Panel on Tanker Safety and Marine Spills Response Capability, *Final Report: Protecting Our Waters* (Ottawa: Minister of Supply and Services, 1990), at 99

Report on the Basis of Liability for Provincial Offences (1990)

Stuart, "Punishing Corporate Criminals with Restraint" (1995), 6 Crim. L.F. 219

Carlton, "A Principled Approach to the Constitutional Requirement of Fault" (1992), Ottawa L. Rev. 613

Archibald, "Liability for Provincial Offences: Fault, Penalty and the Principles of Fundamental Justice in Canada (A Review of Law Reform Proposals From Ontario, Saskatchewan and Alberta)" (1991), 14 Dalhousie L.J. 65

Roach, Book Review of Ontario Law Reform Commission Report on the Basis of Liability for Provincial Offences (1990), 69 Can. B. Rev. 802

R. v. Pilipovic, [1996] O.J. No. 3139

R. v. Bellomo, [1995] O.J. No. 113

R. v. Nickel City Transport (Sudbury) Ltd. (1993), 14 O.R. (3d) 115

R. v. Ellis-Don Ltd. (1992), 7 O.R. (3d) 320

R. v. Wholesale Travel Group Inc., [1991] 3 S.C.R. 154, 84 D.L.R. (4th) 161

Canadian Cable Television Ass'n v. American College Sports Collective of Canada Inc. (1991), 129 N.R. 296

R. v. Ellis Don Ltd. (1990), 1 O.R. (3d) 193

Report on Administration of Estates of Deceased Persons (1991)

Archibald, "An Outline of the Ontario Law Reform Commission's 1991 Report on Administration of Estates of Deceased Persons" (1993), 12 Estates & Trusts J. 236

Warsh Estate v. Warsh, [1996] O.J. No. 3196

Appointing Judges: Philosophy, Politics and Practice (1991)

Symes v. Canada, [1993] 4 S.C.R. 695

Report on Exemplary Damages (1991)

Klar, "Punitive Damages in Canada: *Smith v. Megafood*" (Fall 1995), 17 Loy. L.A. Int'l. & Comp. L.J. 809

Roy, Book Review of Ontario Law Reform Commission Report on Exemplary Damages (1992), 71 Can. B. Rev. 625

Hudson's Bay Co. v. White, [1997] O.J. No. 307

Lubrizol Corp. v. Imperial Oil Ltd., [1996] 3 F.C. 40, 197 N.R. 241

Quebec (Public Curator) v. Syndicate national des employés de l'hôpital St-Ferdinand (1996), 138 D.L.R. (4th) 577, 202 N.R. 321

S.P. v. F.K., [1996] S.J. No. 839

Peeters v. Canada, [1993] F.C.J. No. 1146

Lee v. Gao (1992), 65 B.C.L.R. (2d) 294

Report on Child Witnesses (1991)

Feldthusen, "The Civil Action for Sexual Battery: Therapeutic Jurisprudence" (1993), 25 Ottawa L. Rev. 203

McGillivray, "Debunking Myths: Children in the Civil Courts" (1992), 21 Man. L.J. 151

R. v. S.D.P., [1995] O.J. No. 965

R. v. Parnell (1995), 98 C.C.C. (3d) 83

R. v. G.S., [1994] B.J. No. 964

R. v. Toten (1993), 14 O.R. (3d) 225

R. v. W.B., [1992] A.J. No. 1168

Khan v. College of Physicians and Surgeons of Ontario (1992), 9 O.R. (3d) 641

Report on Testing for AIDS (1992)

Casswell, Book Review of Ontario Law Reform Commission Report on Testing for AIDS (1993), 72 Can. B. Rev. 265

"Ontario Commission Opposes Mandatory AIDS Testing", Canadian Health Facilities Law Guide, Newsletter No. 104 (April 27, 1992)

Sears, Book Review of the Ontario Law Reform Commission, *Report on Testing for AIDS* (1993), 4 Windsor Rev. of Legal & Soc. Issues 158

Report on Public Inquiries (1992)

Armstrong, "The Public Inquiry: Two Suggestions for Reform" (1994), 43 U.N.B.L.J. 377

Kaiser, "The Public Inquiry and the Presumption of Innocence: The Prospects for Mutual Survival" (1994), 43 U.N.B.L.J. 391

Roach, "Public Inquiries, Prosecutions or Both?" (1994), 43 U.N.B.L.J. 415

Stalker, "The Protection of Individual Rights and the Public Inquiry" (1994), 43 U.N.B.L.J. 427

Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System) (1996), 136 D.L.R. (4th) 449

Culligan v. Miller J. (1996), 454 A.P.R. 321

Phillips v. Nova Scotia (Commission of Inquiry into the Westry Mine Tragedy) (1995), 124 D.L.R. (4th) 129, C.C.C. (3d) 20

Prince v. New Brunswick (Commission of Inquiry into the Kingsclear Youth Training Centre, [1996], N.B.J. No. 271

Richards v. New Brunswick (Commission of Inquiry into the Kingsclear Youth Training Centre), [1996] N.B.J. No. 272

R. v. R.J.S., [1995] 1 S.C.R. 451

Hryciuk v. Ontario (Lieutenant Governor) (1994), 18 O.R. (3d) 695, 71 O.A.C. 289, 115 D.L.R. (4th) 227

Sutherland v. Canadian Red Cross Society (1994), 17 O.R. (3d) 645

Phillips v. Nova Scotia (Westray Mine Public Inquiry), [1993] N.S.J. No. 11

Report on the Rights and Responsibilities of Cohabitants under the *Family Law Act* (1993)

Wilets, "A Global View of Gay and Lesbian Families" (Fall 1995), 22 Hum. Rts. 23

Holland and Stalbecker-Petley, *Cohabitation: The Law in Canada* (1994)

MacDonald, Weiler, Mesbur, Perkins and Wilton (eds.), *Law and Practice under the Family Law Act of Ontario* (1994)

M. v. H. (1996), 31 O.R. (3d) (C.A.)

M. v. H. (1996), 27 O.R. (3d) 593, 132 D.L.R. (4th) 538

Report on Family Property Law (1993)

MacDonald, Weiler, Mesbur, Perkins and Wilton (eds.), *Law and Practice under the Family Law Act of Ontario* (1994)

Gaudet (Litigation Guardian of) v. Young Estate, [1995] O.J. No. 947

Study Paper on Litigating the Relationship Between Equity and Equality (1993)

Canadian Imperial Bank of Commerce v. Ohlson (1996), 180 A.R. 148
R. v. M.(C.) (1995), 23 O.R. (3d) 629, 98 C.C.C. (3d) 481
Roberts v. Ontario (1994), 73 O.A.C. 20
Ontario Human Rights Commission v. Ontario (1994), 19 O.R. (3d) 387

Report on Pensions as Family Property: Valuation and Division 1995

Bascello v. Bascello (1995), 26 O.R. (3d) 342

APPENDIX D

ONTARIO LAW REFORM COMMISSION
ADVISORY BOARD

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Court of Appeal for Ontario

Joanne Campbell
General Manager
Metro Toronto Housing Co. Ltd.

Mr. Justice Marvin Catzman
Court of Appeal for Ontario

Marshall Cohen
C.E.O.
The Molson Companies Ltd.

Anne R. Dubin
Tory, Tory, DesLauriers & Binnington

Her Honour Judge Mary F. Dunbar
Ontario Court of Justice
(Provincial Division)

Professor Margrit Eichler
Sociology Department
The Ontario Institute for Studies in Education

Catherine Frazee
Vice Chair
Workers' Compensation Appeals Tribunal

Robert Fulford

Professor Phillipe Garigue
International Studies,
Glendon College

Edward L. Greenspan
Greenspan and Associates

Mr. Justice Jack D. Ground
Ontario Court of Justice
(General Division)

Professor Peter W. Hogg
Osgoode Hall Law School
York University

Dr. Ron Ianni
President
University of Windsor

Roberta Jamieson
Ombudsman

Mr. Justice John Jennings
Ontario Court of Justice
(General Division)

Stephen Lewis

Marie Marchand
Project Co-ordinator
Women into Apprenticeship

Chief Justice R. Roy McMurtry
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Associate Chief Justice John Morden
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J. Robert S. Prichard
President
University of Toronto

Mr. Justice Edward Saunders
Ontario Court of Justice
(General Division)

Graham Scott
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Mr. Justice James M. Spence
Ontario Court of Justice
(General Division)

Janet Stewart
Lerner & Associates

Professor Katherine Swinton
Faculty of Law
University of Toronto

Associate Chief Justice Robert J.K. Walmsley
Special Adviser to Chief Judge
Ontario Court of Justice
(Provincial Division)

APPENDIX E

OFFICERS (1964-1996)
ONTARIO LAW REFORM COMMISSION

CHAIRS

Honourable James C. McRuer, OC, LLD, DCL	July 1, 1964 - June 30, 1966
H. Allan Leal, OC, QC, LLM, LLD, DCL	July 1, 1966 - March 17, 1977
Derek Mendes da Costa, QC, SJD, LLD (now the Honourable Judge Mendes da Costa)	July 1, 1977 - June 20, 1984
James R. Breithaupt, CStJ, CD, QC, MA, LLB	November 1, 1984 - March 20, 1989
Rosalie S. Abella, BA, LLB (now the Honourable Madam Justice Abella)	March 20, 1989 - March 12, 1992
Richard E.B. Simeon, PhD (*Acting*)	May 1, 1992 - December 31, 1992
John D. McCamus, MA, LLB, LLM	February 12, 1993 - December 31, 1996

VICE CHAIRS

Honourable James C. McRuer, OC, LLD, DCL	July 1, 1966 - February 8, 1977
Honourable George A. Gale, CC, QC, LLD	March 1, 1977 - October 1, 1981
H. Allan Leal, OC, QC, LLM, LLD, DCL	October 1, 1981 - March 31, 1989
Richard E.B. Simeon, PhD	April 14, 1989 - April13, 1992 and January 1, 1993 - April 13, 1995

COMMISSIONERS

Honourable James C. McRuer, OC, LLD, DCL	July 1, 1964 - June 1, 1982
H. Allan Leal, OC, QC, LLM, LLD, DCL	July 9, 1964 - March 17, 1977 and October 1, 1981 - March 31, 1989
Honourable Richard A. Bell, PC, QC, LLD	November 12, 1964 - March 6, 1986
W. Gibson Gray, QC (now the Honourable Mr. Justice Gray)	November 12, 1964 - December 4, 1979
William R. Poole, QC	November 12, 1964 - March 6, 1986
Honourable George A. Gale, CC, QC, LLD	March 1, 1977 - October 1, 1981
Derek Mendes da Costa, QC, SJD, LLD (now the Honourable Judge Mendes da Costa)	July 1, 1977 - June 20, 1984
Barry A. Percival, Q.C.	January 23, 1980 - January 22, 1986
James R. Breithaupt, CStJ, CD, QC, MA, LLB	November 1, 1984 - March 20, 1989
Earl A. Cherniak, QC	March 6, 1986 - September 5, 1993
J. Robert S. Prichard, MBA, LLM	March 6, 1986 - July 31, 1990
Margaret A. Ross, BA (Hon), LLB	March 6, 1986 - December 5, 1993
Rosalie S. Abella, BA, LLB (now the Honourable Madam Justice Abella)	March 20, 1989 - March 12, 1992
Richard E.B. Simeon, PhD	April 14, 1989 - April 13, 1995
John D. McCamus, MA, LLB, LLM	August 1, 1990 - December 31, 1996

Nathalie Des Rosiers, LLB, LLM	January 14, 1993 - January 13, 1996
Sanda Rodgers, BA, LLB, BCL, LLM	January 14, 1993 - January 13, 1996
The Honourable Judge Vibert Lampkin, LLB, LLM	June 24, 1993 - June 23, 1996

GENERAL COUNSEL AND DIRECTORS OF RESEARCH (Formerly "Counsel")

William B. Common, QC, LLD	November 23, 1964 - May 31, 1967
Richard Gosse, QC, BA, LLB, DPhil	January 1, 1968 - December 31, 1969
Edward F. Ryan, LLM	January 1, 1970 - April 30, 1973
Lyle S. Fairbairn, BA, LLB	November 1, 1973 - July 30, 1976
M. Patricia Richardson, MA, LLB	December 1, 1976 - July 15, 1988
M.A. Springman, MA, MSc, LLB	July 23, 1988 - March 31, 1992

ADMINISTRATIVE OFFICERS and SECRETARIES OF THE COMMISSION

Aileen F. Chute	July 1, 1964 - May 31, 1984
Diane L. Murdoch	August 20, 1984 - August 8, 1986
Anne McGarrigle, LLB	December 15, 1986 - April 30, 1991
Mary Lasica, BAA	July 8, 1991 - December 31, 1996

APPENDIX F

PERMANENT STAFF (1964-1996)
ONTARIO LAW REFORM COMMISSION

SENIOR COUNSEL
(Formerly "Senior Legal Research Officers")

M.A. Springman, MA, MSc, LLB	1980 - 1988
Lawrence M. Fox, LLB	1988 - 1992
J.J. Morrison, BA (Hon), LLB, LLM	1994 - 1996

COUNSEL
(Formerly "Legal Research Officers")

Maurice J. Coombs, BSc, LLM	1965 - 1971
Maureen J. Sabia, BA, LLB	1968 - 1973
Ellizabeth A.M. MacNab, LLB	1970 - 1971
Keith B. Farquhar, LLM (Hon), LLM	1971 - 1973
John F. Layton, MA, LLB	1972 - 1973
M.A. Springman, MA, Msc, LLB	1974 - 1980
M. Patricia Richardson, MA, LLB	1974 - 1976
C.H. MacLean, BA, LLB	1974 - 1975
R.S.G. Chester, BA (Hons. Juris.)	1974 - 1977
Catherine G. Wolhowe, BA, JD	1975 - 1977
Martha Trofimenko, LLM	1977
Jennifer K. Bankier, BA, LLB	1977 - 1979
William A. Bogart, BA, LLB	1977 - 1979
M.E.B. Salter, BA, LLB	1978
Eric Gertner, LLB, BCL (Oxon)	1978 - 1983
Ann M. Merritt, BA, LLB	1979 - 1985
Lawrence M. Fox, LLB	1979 - 1988
Pamela M. Gibson, BA, LLB	1980 - 1983
Marilyn R. Leitman, BA, LLM	1984 - 1987
Judith A. Bellis, BA, LLB	1985 - 1991

J.J. Morrison, BA (Hon), LLB, LLM	1986 - 1994
Carolyn R. Hill, BA (Hon), LLB, LLM	1987 - 1988
Lise S.C. Hendlisz, MA, BCL, LLB	1988
Peter M. Sibenik, MA, LLB	1988 - 1989
Ronda F. Bessner, BA (Hon), BCL, LLB, LLM	1989 - 1992
Christine B. Henderson, BA, LLB	1989 - 1996
Lisa Brownstone, BA, LLB, LLM	1991 - 1992
Mordechai Ben-Dat, BA, LLB	1991 - 1992
Donald F. Bur, LLB, LLM, BCL, PhD	1992 - 1996
Sarah M. Boulby, MA, LLB	1993
Barbara J. Hendrickson, MA, LLB, LLM	1993 - 1996
Howard Goldstein, BA (Hon), MES, LLB, LLM	1994 - 1996

ADMINISTRATIVE ASSISTANTS

A.E. Harrower	1974 - 1977
Roslynne F. Mains, BA	1977 - 1980
J.A. Brown, BA	1980 - 1982
Beverley G. Woodley	1982 - 1991
Annetta Charles, BA	1991 - 1993

SECRETARIES TO CHAIRS

Aileen F. Chute	1964 - 1966
Stephanie Hlynka	1966 - 1989
Tina Afonso	1989 - 1996

SECRETARIES TO VICE CHAIRS

Estella Spergel	1966 - 1968
H. Chu	1968 - 1972

A.E. Harrower	1972 - 1974
M.E. Williams	1973 - 1977
Elizabeth N. Page	1977 - 1985
Tina Afonso	1989 - 1996

SECRETARIES TO GENERAL COUNSEL AND DIRECTORS OF RESEARCH

L.G. Levack	1965 - 1967
A.E. Harrower	1967 - 1972
D.M. Halyburton	1972 - 1993

SECRETARIES TO ADMINISTRATIVE OFFICERS

E.A. Wolaniuk	1972 - 1974
M.E. Llewellyn	1974 - 1976
Beverley G. Woodley	1976 - 1982
Mary Rose Betinvieh, BAA	1983 - 1988
Mary O'Hara	1988 - 1993
D.M. Halyburton	1994 - 1996

SECRETARIES TO COUNSEL

F. Finnegan	1971 - 1973
P.C. Gronroos	1972 - 1973
Cynthia D. Smith	1973 - 1978
P. John	1973 - 1974
Teresa D. Loughlin	1974 - 1977
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E.M. Renda	1978 - 1980
Toni Farrace	1980 - 1981
Victoria Van Asperen, BSc	1980 - 1984

Christine Seguin	1981 - 1982
Cora Calixterio	1982 - 1996
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